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# THE SOUTHWESTERN POLITICAL AND SOCIAL SCIENCE QUARTERLY

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# THE SOUTHWESTERN POLITICAL AND SOCIAL SCIENCE QUARTERLY

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## ACCULTURATION AND THE AMERICAN NEGRO

BY MELVILLE J. HERSKOVITS

*Northwestern University*

The processes by which human beings absorb the cultures to which they are exposed is one of the most fascinating aspects of the study of social groups and their behavior. The differences between cultures which we see when we survey the civilizations of the world, the utter diversity of the behavior to which they condition the peoples who live under them, and the manner in which they all solve the problems involved in the business of living, is nothing short of amazing. In earlier days, when the study of society was younger, it was felt that the problem of how these differences had come to be, and why the peoples who practiced their various civilizations behaved as they did, was a simple matter. It was all accepted as a function of the human mind, which, developing in an evolutionary progression from savage to barbarous through feudal to civilized states of existence, caused men to act in the same manner on the same level of cultural development. This, it was argued, paralleled the biological development of humanity, which had evolved from the amoeba and the fish, an evolution recalled in the foetal growth of every individual. And the dictum that "ontogeny recapitulates phylogeny" was applied to the social aspect of life, since the behavior of the child was imagined to be the same as that of the savage through whose social state the modern child's ancestors had passed.

Today we know better, because we know more. And knowing more, we realize how little we are equipped to solve the problem. For with wider knowledge of the civilizations

of the earth has come refutation of this simplicistic approach. And with refutation has come bewilderment. When we see how multitudinous are the ways of living that are to be found on the earth, all of them successful, all of them making for relative happiness for the people who live in them, each of them, as far as the beliefs of the people who compose it are concerned, the only authentic manner of ordering life, we wonder how one mankind could have been responsible for them all. How can organisms of the same physical make-up react, where such vastly important aspects of life are concerned, in social fashions so radically different?

It is not accepted by everyone, of course, that the human organism wherever found is essentially one. The stress that is laid on the various racial types, the doctrines which claim one culture superior to another, and lay this superiority to a biological basis, are known to us all. They may be true; or they may not. Certainly neither position has been conclusively established as yet. But it gives us pause when we consider the easy fashion in which the races of mankind are differentiated. No zoologist would dream of making differences in the proportions between the length and breadth of the head the sole basis for a racial classification, for example. Certainly the tiger and the cat are vastly more unlike than the Australian and the Swede. And the large differences between dogs, such as the poodle and the great Dane, do not differentiate them for the biologist as do the enormously more minute dissimilarities between any one type of mankind and any other.

And yet cultures are so tremendously different. Language is only one aspect of culture, but to hear the "clicks" of the Bushman, the tonal stress of the Chinese and the West African, or the glottal stops of the Kwakiutl of the north Pacific coast of North America makes it almost incredible that the physical basis of all these sounds is the same. But the tongue of the Bushman is no different, as far as has been discovered, from that of the European, nor is the glottis of the Kwakiutl any different from that of the southern Asiatic who does not know the harshness of glottal stops in his language. The point is, that in language as in other aspects of culture, the element that may be selected for use is not determined by the physical basis on which it rests. The same tongue, with proper training,



may speak the most diverse languages, which have between them a tremendous variety of sounds. But when a given phonetic range is established in a culture, the sounds of the language become fixed, and it is almost unbelievable to the people who speak that language than any other series of sounds might possibly be used.

So with all culture. The actual ways in which a culture behaves do not necessitate the assumption on the part of the student that these are the only ways in which it might have been ordered. It does not follow that because there are differences between the civilizations of Africa and North America, there are reasons of physical type to account for these differences. Because, if one examines the cultures of Africa, which are those of peoples of the same racial stock, one will find the variety of ways and means of meeting the problem of getting a living which marks the cultural differences that are also to be found among the Indians of this continent. True, we have two different races on the two continents. But it is, to a large extent, an open question whether the differences between the African cultures, taken as a whole, when they are contrasted with the cultures of the North American Indians, considered en masse, are any greater than the differences which you will find among the Africans or among the Indians. Nor will likenesses be lacking. Thus, it is said that the African has a genius for political organization, that he built tremendous states, and created important legalistic systems. Yet we find something of the same phenomenon among the Indians of pre-Spanish times in Mexico, Central America, and Peru, where the richness of the political organization, its efficiency and its stability, have been cause for wonder to every student who has gone into the available information concerning them. And I seriously doubt whether there is greater difference between the close-knit socialism of the Inca civilization and the loose political make-up of the hunting tribes of eastern Quebec, than there is between the vast political organization of the Yoruba or Fulani or Bini empires of West Africa, and the absence of any organized state among some of the cattle-keeping peoples of Tanganyika territory. Yet this cuts through the racial factor in both ways, for the races of Africa

and North America are different, while, in the main, we find only one race on each continent.

There are quite other aspects of the problem of what makes cultures differ. Thus, the ecological factor is considered of great importance by some; the fact that cultures must meet different problems presented by differing environments in which they are found. I do not feel, I must confess, that the aspect of geographical influence must be considered in the light of being a determining factor. If we take only the most conservative stand possible (one which, it seems to me, is the only one tenable at this state of our knowledge), we see that the environment of a culture rather limits than determines it. Thus, we may find two cultures in the same region that are largely different from one another. The Navajo and the Pueblo Indians in the desert region of the Southwest furnish a staple example which may be repeated here. Yet both are found in the desert, and beyond the limitations set by this fact of environment they cannot go. You cannot have a cattle culture where the tsetse fly is found, or where there is no land for grazing, as in the tropical forests. Nor can you live in ice-houses in such an environment. But for other than broad facts such as these, at once apparent to the most casual reflection, the environmental aspect of the determination of culture has no large importance. The environment rather limits and, within the limits it sets, the historical past of each culture plays, making for the well-knit whole, the going concern that each appears to be to us under the most careful examination.

Yet I do not dismiss in such summary fashion the existence of differences of significance in the physical make-up of human groups such as may conceivably exist. Nor should one make dogmatic assumptions as to the existence or non-existence of racial differences in aptitudes, in intelligence, in special cultural tendencies. It may be quite possible that differences in physical type are associated with cultural limitations in one people that are not found in another. But I confess that I doubt it, when the differences in culture within a given race, as great as those I have cited above as chance examples, present themselves. Nor is this the only reason for doubting the doctrine of inherent cultural differences associated with race, even when we put the proposition in its

mildest form, and omit from the term "difference" any invidious connotations of superiority or inferiority. For one of the strongest reasons for doubt lies in the phenomenon of acculturation.

We have seen that cultures differ radically. But the fact that one people may take over not only traits of the culture of another people, but may accept and wield an alien culture in its entirety, casts doubt of the most serious order on the hypothesis of a possible biological basis of culture. That this acceptance of an alien culture by a people is possible and actually occurs is well known. The fact that certain traits of a given culture may be taken over by peoples of other cultures is termed diffusion, and the phenomenon is so common that, in reaction to the evolutionary position I have mentioned above, certain German ethnologists, headed by Fritz Graebner, and English ones, under the leadership of G. Elliot Smith, have been vociferous in their insistence that diffusion is the only way in which culture may be acquired, and that an invention cannot possibly be made more than once. But I do not speak of acculturation in this sense. For, although one culture may accept certain traits from a neighboring one, this is vastly different from a body of people accepting *in toto* the culture of an alien group. And it is this that we call acculturation.

It comes dangerously near to being one of those phenomena that are at the absolute base of the cultural activities of human nature. It is difficult to explain why people accept cultural values, but it remains that, transplanted into a new and strange culture, one where the existing population is sufficiently larger than the transplanted group so that it is able to impose its will on it, even a very sizable group of persons will undergo a process of acculturation, of acceptance of the cultural values of the people among whom it finds itself. We need not utilize the obvious examples of the acculturation of aliens in this country to make the point. It is a patent illustration. Thus, the language of Italians who have been living even in as closely Italian a community as the Italian section of New York City, after a few years of residence in this country among fellow countrymen becomes suffused with strange idioms. Indeed, the generation of Italians born in this country, even though they remain in American-Italian settlements,

speaking their mother tongue with an accent that is distinctly different from the one their forbears spoke in Italy. And the tragedy that often follows upon the more complete acculturation of children of foreign-born parents who have been born and brought up in contact with the American mores is too well known to allow of detailed repetition here.

Acculturation, the taking over of an alien culture by a group exposed to it, is a process that may be traced all through written history. The barbarians from the north conquered Rome, but the subtler processes of peaceful acculturation in the land they had conquered were more powerful than their arms, and they became Romans in culture. In the same fashion, the civilization of Greece had conquered the Roman power. So the early American colonists were acculturated to the prevailing agricultural patterns of the Indians they conquered, and today we plant corn in rows instead of sowing the grain European fashion, and have adopted the sweet potato, the squash, tobacco, and numerous other plants of the Indians. Japanese and Chinese born in this country speak, act, dress, and in all cultural respects are essentially like the persons of other racial stocks living here. Or cultures may pass in their entirety from people to people almost as easily as single traits—the readiness with which Japan has taken over the machine technique and its associated cultural patterns from Western civilization need only be mentioned to be recognized.

But perhaps the best instance which may be given of this fashion in which one people may accept and validate for themselves the culture of another folk is contained in the negroes of this country, particularly in the negroes who have migrated to the northern cities and settled there in large communities. We have represented in these individuals a most diverse racial background. About 20 to 25 per cent of them are of unmixed negro origin, but the rest have not only various amounts of white ancestry, but American Indian as well. Should there be correlation between racial background and the ability to rise to the exigencies of a given culture, it should be demonstrable in this group. So it may be profitable to consider the American negro population, as it centers in some of our larger cities and elsewhere, and see the extent to which the cultural reactions of its members may be different from that



of the prevailing culture of which it forms a part, the dominant white civilization. My opportunities to study this problem of acculturation as regards the negro have been rather more extended than is ordinarily the case. Although the work which took me among them was primarily that connected with a study of the physical anthropology of these people, a study of the effects of racial crossing, for which they furnish as near laboratory conditions as may be found in a human population, it was not long before the opportunity to watch at the same time this phenomenon of the manner in which these American negroes had become essentially a part of the general American culture impressed itself upon me. I have discussed certain aspects of this phase of the problem elsewhere,<sup>1</sup> but the data are endless, and further contact with the negro communities with which I have worked has brought new instances of the extent to which the acculturation has taken place.

There is an hypothesis, widely spread, that the negro, in America as in Africa, has a genius for culture of a special sort. We hear of this wherever the negro is discussed. Setting aside the fact that biologically, the American negro is only in comparatively rare instances negro in the same physical sense as the African, because of the racial mixture in his ancestry, let us consider, with this in mind, some of the ways in which the American negro shows himself to be essentially American, and scarcely at all negro. I have already, in the papers referred to, mentioned some of the customs of the negroes of this country which are typically in the American style. There are numerous others. Thus, the phenomenon of what may be termed "one hundred per cent Americanism" is one which has developed in this country during the past decade to a degree that makes it a notable social factor. We find it consists essentially of a contempt for the non-American, a feeling that any person or usage not native to this country is *ipso facto* inferior. I found the same psychology among the negroes of New York City. It happens that there

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<sup>1</sup>"The Color Line," *American Mercury*, October, 1925, Vol. vi, pp. 204-208; "Social Pattern: a Methodological Study, *Social Forces*, Vol. iv, 1925, pp. 57-69; "Some Effects of Social Selection on the American Negro," *Pub. Am. Sociological Soc.*, Vol. xxii., 1926, pp. 77-82.

is, in that city, a large proportion of the negro population which consists of immigrants from the islands of the Caribbean Sea. The attitude of the American-born negro to such a foreigner duplicates to a striking degree that of the white American, and it is not without significance in the light of the marriage patterns discussed below that in the few cases of intermarriage between American and West Indian negroes the husband was the foreigner, the wife native; a response to the pattern precisely that found by Dr. Isabelle Carter among the Italians in this country.

The attitude of the negroes toward their spirituals offers, again, a most interesting example of the acculturation of the American negro. Up to very recent times, when spirituals became highly popular in sophisticated musical circles, they were felt to be essentially something for the negroes to be anything but proud of. I am told, for example, that in a well-to-do negro church in Richmond, an old negro of not impeccable social standing in the negro community, who came to services and sang a spiritual when the Governor's wife happened to be visiting the church, made the respectable members feel no little shame at the indignity. Such songs were regarded as survivals of slave days, and, as such, were emblematic of barbarism, and not to be displayed.

Many more examples of this sort of acculturation might be mentioned. In the field of art, as of music, one may witness the change at present occurring in the attitude of the intellectual negroes who are interested in artistic movements. It is well known that the wood-carving of the native African peoples is of the highest artistic order. Indeed, it is claimed that one of the most important sources of the modern art movement in our own civilization, particularly that stemming from the French school of modernists, was this negro art. Now these pieces of African wood-carving that have had the greatest influence are stylized human representations usually used as fetiches, or masks employed in African religious and other ceremonials. The American negroes, in so far as they knew these objects, regarded them as did the majority of folk in the zone of western European culture. They were relics of savagery, to be looked at with interest as such, if one happened to have ethnological interests, or to be shuddered

at as manifesting the depths to which the human animal might fall in his worship of false gods, were one a religious person. Then came the artistic revival, and with it the acclamation of this art as equalling that of Greece and Rome. Today the intellectual negro has joined his white brother in appreciating this art. The Harlem Public Library in New York City organizes an African art center, just as negro Harlem goes to hear concerts of the spirituals. This is essentially nothing strange—in any event, it is not strange when we think in terms of acculturation to the prevalent social patterns. For if we accept the proposition that the American negro is an American in culture rather than a negro, it becomes quite clear that his behavior will fall in with that which is considered American, and the African reactions will not appear.

An outstanding manifestation of the acculturation of the negro in this country is that in which the mechanism of social selection in marriage, to which I have referred above, shows itself. Living in a white civilization, where the color of the skin is so enormously important as far as all the opportunities of living the full life are concerned, the American negro takes over the prevailing culture. If white gives opportunity, the nearer white a negro may be, the more prized he is in the eyes of his fellow negroes, on the whole. Certainly, he has more opportunities within his own group, as many illustrations I have given in the papers referred to above demonstrate. In mating, the prevailing pattern of marriage in our civilization is one according to which the man marries a woman who will bring him prestige, while the woman marries a man who will be able, as the saying goes, to "take care of her." Color does this in the negro community, and in accordance with it I have been able to establish, both by questioning and by actual observation, that the strong tendency among negroes is for a husband to be darker than his wife.<sup>2</sup> I need not repeat here the actual statistical data on which this statement is based—that it is an actual statement of an existing condition is not to be doubted in the least. One finds indications of this point of view everywhere in the negro community. I quote

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<sup>2</sup>"Social Selection in a Mixed Population," *Proceedings of the National Academy of Sciences*, Vol. xii, 1926, pp. 587-593.

the following poem, published recently<sup>3</sup> in a negro poetry magazine, and entitled "If She Were Not Dark," as an example:

I love the black and rippling hair  
Of little Nina Clark,  
I love her beauty, fresh and rare,  
But oh! her skin is dark.

I love the eyes, the lips, the teeth  
Of little Nina Clark,  
I love the virtue underneath  
That skin which is so dark.

I might have married her some day,  
This lovely Nina Clark,  
But this one thing stands in the way—  
Her skin, which God made dark.

When the racial genius of the negro is mentioned, it is usually associated with musical ability. Not only is a generalized musical genius attributed to him, but it is asserted that the form this takes has a biological basis as well, and that there has been a carrying over of the African music because the African form is the one best suited to the negro ability. Rhythm is always pointed to as the outstanding expression of this form, and the rhythmic qualities of the spirituals are usually cited as the example. Yet it may be pointed out that there is practically no people without this feeling for rhythm, as witness, to go no further, the manner in which the essentially rhythmical jazz—often termed negro for this reason—has swept all of Western civilization. So persuasive is the theory that I accepted it until I found that in so many other facts of life the essentially American, rather than any discernible essentially negro manner of life was the one followed. A section in Miss Scarborough's discussion of the negro folk-songs<sup>4</sup> where she demonstrated how the negroes had adopted the old English ballad form from their white masters, substituted the first for the third person, and preserved the old and

<sup>3</sup>It is by Lorraine Chambers, and comes from the spring, 1927, number (Vol. i, No. 1) of "Black Opals," p. 4.

<sup>4</sup>Dorothy Scarborough, *On the Trait of Negro Folk-Songs*, Cambridge: Harvard University Press, 1926.



created new themes in utilizing it, made me wonder about this specialized expression of an inborn aptitude. For it must be remembered, and I must stress the point again, that wherever the flair of the negro for special cultural form is emphasized, it is always in the artistic field. This is inherent—it is a part of his racial heritage—it is born in him. And the proof, here as in the case of rhythmic aptitude, is that the spirituals, these gems of folk-music of America, were produced by the negro.

Certainly no one will deny that the spiritual is a valid musical form, and that it constitutes as fine a folk-music as the world has seen. Ever since Dvorak, enchanted with its melodic flow, created his "Symphony to the New World" with negro folk-tunes as his basic thematic material, and Krebheil followed with his discussion of negro music, this has been accepted as the essential gift of the negro to the country to which he was brought. And with this has gone the assumption, something in the nature of an argument *ex post facto*, that not only was the musical genius responsible for it inherited, but the actual forms it took—and it is this I conceive as open to question—constitute a direct inherent carrying over of the African style. For, if our theory of acculturation is correct, if it is true that a people living in an alien and dominant civilization take over, in the main, rather the new forms than maintain the older ones, we would not expect that musical forms alone, out of all the cultural background which the first slaves brought with them to this country, would have been preserved. Of course, the survival of a cultural trait is not impossible, and had this occurred, explanation on a purely cultural plane would not be too difficult. But Professor von Hornbostel, of the University of Berlin, shows that not even the musical form of the American negro is essentially African.

His short paper<sup>5</sup> takes the form of a review of five books of negro folk-songs, and is written about just this point of the origin of the spirituals. Among these books there are some in which the African origin of the negro musical expression in America is emphatically put forth. Mr. James Weldon

<sup>5</sup>Erich M. von Hornbostel, "American Negro Songs," *The International Review of Missions*, Vol. xv, No. 60, pp. 748ff. October, 1926.

Johnson, for example, emphasizes<sup>6</sup> this fashion in which the inherent negro "feel" for music of a certain sort is shown by the spirituals. They are pure negro, he maintains, saying that "this statement that the spirituals are imitations made by the negro of other music that he heard is an absurdity." But is it? Professor von Hornbostel finds himself in disagreement with this position, and he, alone of all the persons who have written to my knowledge of the origins of the American negro folk-music, has had the advantage not only of having heard the American negro songs, but of having heard Africans sing and of hearing "many hundreds of phonographed songs from all parts of the African continent," to quote his own statement. So he seeks the essential African element of American negro music. "At first sight," he says, "when comparing the written music of African and American negroes, one would think that they have nothing in common. The American negro songs look like European folk-songs, Scotch and English in the English speaking area, French and Spanish in the Creole districts." And he believes that to their European origin are due "even some of the musical characteristics which nearly all writers on the subject claim to be African, the pentatonic scale, the 'Scotch snap,' and harmony."

He goes on to take up these aspects of the spirituals which are supposed to be so essentially negro. The pentatonic scale (that which is played on the black keys of the piano) is found in African music, yet it is not characteristic of it as is the case with the Celtic folk-tunes, with which the negroes came into contact through hearing the old Scottish, Welsh and Irish songs. He then goes to the next point, that of syncopation. Now this rhythm, we are told, is only one of the hundreds of intricate rhythms that are characteristic of African music. It is, on the other hand, a thing found, though rarely, in the Scottish songs, where it is given the term I quoted above, the "Scotch snap." To cite Dr. von Hornbostel's terse statement of the case, "It was a white achievement, though a black commonplace." As for singing in parts, or harmonization, Professor von Hornbostel shows that this is not an

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<sup>6</sup>*The Book of American Negro Spirituals*, New York, 1926, The Viking Press.

African form at all, since the feeling for singing in thirds, and the use of major and minor, is not only not a non-European trait of music but is not even found in the older European folk-tunes. And as he tells us "all American negro tunes belong to this type."

Now, this is an important point for our discussion of acculturation. We have here a group of people descended in part from a race of undoubtedly high musical ability. The assumption is made in almost every case where the music of the descendants of the Africans is discussed, that this ability is manifest in *forms* which are also peculiar to them. Now, it will be remembered that I did not deny, in my discussion above, that there might be racial aptitudes. But the cultural forms which these aptitudes may take are determined by the culture in which they are found, and culture, it will be remembered, is far from having been proved to be associated with a "racial" genius. And now we have the testimony of this student, than whom there is assuredly no one more competent to testify, that the American negro spiritual, although it reflects the musical genius of the negro, is cast in the forms dictated by this phenomenon of acculturation to the prevailing European culture in which the American negroes found themselves.

What, then, is African in this music? There is the one feature of the spiritual, although even this one is not unknown in Europe, "consisting of leading lines sung by a single voice, alternating with a refrain sung by a chorus." Another is the manner of singing the songs: "You will readily recognize an African negro by seeing him dance and by hearing him sing. . . . This way of the negro is identical in Africa and in America." But the characteristics of the songs themselves are essentially European. Of course, the songs as they exist at present are indigenous to America. For, "it is improbable that the negroes sang merely what their ancestors learned from the white people. . . . The great mass of the songs now in vogue are real folk-songs of American negro origin. . . . they are not mere imitations, nor are they African songs influenced by the white man, but they are songs made by the negro in European style. Had the negro slaves been taken to China instead of to America they would have developed folk-songs in Chinese style." Nor is this anything of

disparagement as far as the quality of the songs, or the genius which made them, are concerned. For "this facility for adaptation is by no means a sign of inferiority. Only a race so highly gifted for music could do this." So, to quote Professor von Hornbostel's conclusion regarding the spirituals: "The American negro songs are European in style and pattern; they are American folk-songs as far as they have originated amidst American folk and culture; they are African when sung by negroes, and only then."

In other words, here in the realm of negro music, where the "geist" associated in general thought with the negro race is supposed to be peculiarly manifest, we see that the processes of acculturation have had their sway, as they have in other phases of culture, and that whatever inherent musical art the negro brought to America is so fused with the prevalent culture of the American scene that little essentially negro remains. It partakes to a large extent of the culture in which the negro finds himself to be living in this country—the culture of Western Europe, and only in certain aspects, those termed by Dr. von Hornbostel the "psycho-physical," are the African remnants discernible.

Culture, we may say, therefore, is not related, as far as can be seen today, to physical form. Whether or not it may be reflected in the differing temperamental tones of different racial stocks is a point concerning which, the most which may be said is, that we must suspend judgment until sufficiently convincing testimony one way or the other is available. The example of the American negroes, a people of the most diverse racial stock, yet living the life of white Americans, offers food for thought as to the matter. Certainly, until we know more, culture must be dealt with by the student on its own base. It develops among all peoples, it migrates from one to another with ease, and it conditions the social reflexes of any individual according to the forms it takes among a given people to which he happens to belong. Whether this person be white, or negro, or Mongol apparently makes little difference. The white American is rather American in his culture than white, and so, essentially, is the negro American. The African negro may be of the same racial stock as some of his American brothers. But culturally, they are as widely separated as the Bostonian whose ancestry came to this country in the Mayflower, and the descendant of the King of Ashanti who lives today in West Africa.



## CENTRAL ADMINISTRATIVE CONTROL OVER MUNICIPALITIES IN THE SOUTHWEST

BY JAMES E. PATE

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"Municipalities are the creatures of the state, created for its benefit, invested with such authority and privileges as the state in its wisdom sees fit to confer upon them."<sup>1</sup> This quotation from the Supreme Court of Texas makes clear the legal relation which exists between the state and the city. It is a relation which sanctions control by the state over the city.

Present methods of control involve a great deal of legislative centralization. This results in the harvest of special legislation which is one of the evils attendant upon our legislatures and one of the reasons for their ill-repute. This legislative control has, on account of its too frequent and indiscriminate exercise, all but destroyed local autonomy.<sup>2</sup> The remedy which has been largely adopted, i.e., the enumeration in the state constitutions of numerous things on which the legislatures are forbidden to pass special legislation, while reducing the amount of legislation of this character,<sup>3</sup> has not entirely removed the evil. Special and local legislation is still an exasperating problem. It will, indeed, continue to be so as long as we adhere to that principle of government which President Goodnow has aptly termed, "Administrative decentralization and legislative centralization."

The proper solution would change the method of control. A type of control which is found on the continent of Europe is a plan of administrative control within general statutory limits. Central administrative control over municipalities is no more centralized or destructive of local autonomy than central legislative control. "It does not involve as great centralization as central legislative control to which all American localities are practically now subject. The European method of regulating the relation of the localities with the central

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<sup>1</sup>*Trent v. Randolph*, 130 S.W. 737.

<sup>2</sup>Goodnow, F. J., *Municipal Problems*, p. 74.

<sup>3</sup>Jones, C. L., *Statute Law Making*, p. 41.

government involves, notwithstanding its central administrative control, a larger measure of home rule than is now accorded by the American method of regulating this relation."<sup>4</sup> Furthermore, it can reasonably be posited that administrative control over municipalities will redound to the advantages of the legislature inasmuch as it will relieve this body of the unfavorable criticism which is attached to the phrase "special legislation" and will cause the atrophy of a useless constitutional limitation on legislative action. This would augur the removal of other limitations. It is reasonable to think that our representative legislative assemblies when free from the shackles of constitutional limitations will stand with dignity and enhanced powers, attracting the best ability and favorable criticism.

There is, at present, a tendency in the United States in the direction of central administrative control over municipalities. It is found greatest in the industrial states and found least in agricultural states.<sup>5</sup> It is the purpose of this article to describe its general progress in the Southwest.<sup>6</sup>

Oklahoma has a greater amount of central control of this character than any other of the southwestern states. In this State the action of the Governor is necessary when a town reaches a population of 2,000 and desires to be incorporated as a city. A petition for incorporation by 35 per cent of the voters is filed. The Governor then issues a proclamation calling an election. He establishes polling places, divides the city into wards, and appoints judges and clerks of election.<sup>7</sup> The charter is submitted to the Governor for his approval. The Constitution states that, "he shall approve the same if it shall not be in conflict with the Constitution and laws of this State."<sup>8</sup> This provision was intended to secure harmony between charters, the Constitution and the law from the beginning of the existence of the community as a municipal corporation. However, this has not been realized inasmuch as the

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<sup>4</sup>Goodnow, F. J., *op. cit.*, p. 87.

<sup>5</sup>White, L. D., *Public Administration*, p. 79.

<sup>6</sup>The southwestern states are, usually, considered as Arkansas, Louisiana, Oklahoma, and Texas.

<sup>7</sup>Blachly and Oatman, *Government of Oklahoma*, p. 626.

<sup>8</sup>*Constitution of Oklahoma*, art. 18, sec. 3a.

practice has been for a busy chief executive to approve without examining closely the details of the charter.<sup>9</sup>

In Arkansas cities are classified and promoted under administrative supervision. Cities of the first-class are those which have a population of 5,000 and above. Those in the second-class have a population of 2,000 to 5,000. The Auditor and Secretary of State ascertain from the Federal census what towns are entitled to become cities of the second-class and what cities of the second-class are entitled to promotion to the first-class. Whereupon the Governor sends a notice to the mayor stating the grade to which the municipality has been advanced.<sup>10</sup>

Control over city elections is primarily legislative rather than administrative. The Legislature regulates elections to the minutest detail, but administrative control is usually exercised in an indirect way through the state's agent, the county. In Oklahoma the county provides ballots for municipal elections. The expense of conducting an election is certified by the county election board to the city council which is required to make appropriations to defray the expense.<sup>11</sup>

Arkansas provides that municipal legislation may be referred to the electorate. An order to have a city ordinance

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<sup>9</sup>Blachly and Oatman, *op. cit.*, p. 628.

<sup>10</sup>Crawford and Moses, *Digest of the Statutes of Arkansas*, chap. 127, sec. 7452.

<sup>11</sup>Bunn's *Compiled Oklahoma Statutes*, chap. 29, sec. 4376.

In Texas the county judge orders and conducts elections for incorporation of towns and also for election of the first officers. He, likewise, conducts elections for abolition of the corporate existence of incorporated towns and cities. See James and Stewart, *County Government in Texas*, p. 39.

In Louisiana each parish has a board of supervisors of elections consisting of the registrar of voters and two others appointed by the Governor. This board appoints election clerks, commissioners, and commission watchers who are appointed by each party. The supervisors receive the election returns and send to the Secretary of State. Stationery is furnished by the State to the commissioners at each polling place. Marr's *Annotated Revised Statutes of Louisiana*, p. 573.

In Arkansas the Governor, Secretary of State, and Attorney General constitute a state board of election commissioners who appoint three qualified electors as commissioners in each county to select election judges for each voting precinct. Crawford and Moses, *Digest of Statutes of Arkansas*, chap. 54, sec. 3711.

referred is by petition, filed with the Secretary of State. A writ of mandamus may be issued against the Secretary if he refuses to accept and certify to the election commissioners any petition for the referendum.<sup>12</sup> An abstract of all the votes cast are returned to the Secretary of State. The Commissioners of the State Board of Election canvass votes cast for and against each measure and certify the results to the Governor. If the vote is favorable the Governor issues a proclamation declaring the measure to be the law of the city.<sup>13</sup>

*Removal of officers.*—Central administrative control involving removal of municipal officers has not been widely adopted in the Southwest. Oklahoma introduced it for limited purposes in 1917. Investigation as to misconduct of municipal officers must be made by the Attorney General when directed by the Governor or upon petition of five citizens.<sup>14</sup> The Attorney General may initiate proceedings for removal in the District or Supreme Court of the State, if his investigation reveals a reasonable cause for complaint.<sup>15</sup> The Attorney General may institute proceedings in ouster on his own initiative when he has reason to believe that the gambling or prohibitory laws or other penal statutes of the State are being openly violated with the connivance or on account of the negligence of the local officers. This law has not by any means been a dead letter. Many county and municipal officials have been removed, and a number have resigned under threat that the law might be applied.<sup>16</sup>

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<sup>12</sup>Referendum is allowed upon any ordinance which is for the support and maintenance of the municipal government, for deficiencies in former appropriations, for the exercise of the police power, or for immediate relief of persons in distress. Crawford and Moses, *op. cit.*, chap. 124, sec. 7503.

<sup>13</sup>*Ibid.*, sec. 7513.

<sup>14</sup>Bunn, *op. cit.*, art. 4, sec. 2414.

<sup>15</sup>*Ibid.*, sec. 2422.

<sup>16</sup>Blachly and Oatman, *op. cit.*, p. 629. Dr. Blachly states that "The Attorney General's law does not serve as a check upon poor and inefficient administration. However, the law has been of great value in doing away with and preventing absolute corruption in municipal and local government by acting as a sort of big stick to keep the less conscientious type of city official from wandering too far from the right path."



Officials of those cities which have adopted the home rule provision are also within the Attorney General's law. The courts have held that the State may impose upon officials of home rule cities certain specific duties in the enforcement of State laws concerning matters in which the State has a sovereign interest, such as gambling, prostitution, and the sale of intoxicating liquors. The State may also remove these officials for negligent performance of these duties. The decision of the court is based on the theory that municipal officers exercising sovereign powers are under control of the State.<sup>17</sup>

*Financial control.*—There is no uniformity as regards a central state authority to control city finance in the Southwest. In Arkansas there is a railroad commission which exercises, in a small way, control of this character.<sup>18</sup> This commission may equalize assessments by adding to value or reducing when above true value. Due process in this procedure consists of notice to the city concerned through the county judge and by publication in local paper. A hearing is also given where cause must be shown for the increase or decrease of assessment.<sup>19</sup> The railroad commission exercises a supervision over assessment and collection of taxes and enforcement of state tax laws.<sup>20</sup> The commissioners are, therefore, required to visit each county in the state at least once a year for the purpose of advising the taxing officials as to their duties under the law. For expediting this duty, the state is divided into three districts. A commissioner is assigned to each district.<sup>21</sup>

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<sup>17</sup>*Burns v. Linn*, 49 Okla. 526, *Wooden v. State*, 173, p. 829.

<sup>18</sup>The Arkansas Tax Commission and the State Corporation Commission have been abolished. Their duties were transferred to the Railroad Commission. *Acts of Arkansas*, 1923, art. 343.

<sup>19</sup>*Bunn's Digest*, secs. 9969-9970. The commission is authorized to equalize the valuation of property by districts, counties, and cities only. *Bank of Jonesboro v. Hampton*, 92 Ark. 492.

<sup>20</sup>*Bunn's Digest of Statutes of Arkansas*, 1921, chap. 168, secs. 9788, 9789.

<sup>21</sup>Results of supervision of this character seem to be that the assessing officers obtain a more extensive idea of their duties, and become imbued with more energy and ambition to do their duty honestly and efficiently. *Report of Arkansas Tax Commission*, 1918, p. 37.

Another central administrative authority which exercises control over local finance is the Louisiana Tax Commission.<sup>22</sup> This commission has the power to fix and equalize the value of all taxable property for the purpose of collecting state taxes. It prescribes the method of making up assessment rolls to which assessors are required to conform. The Commission approves these assessment rolls before they are filed with the tax collectors. Assessors are required to give the reasons and data by which they are governed in fixing valuations, and they may request the Commission's advice as to valuation of property. The Commission may publicly reprimand assessors for wilful negligence or for unfair assessment, or they may institute removal proceedings through the Attorney General for misconduct.<sup>23</sup>

There exists in Louisiana an independent officer who supervises to a limited extent local financial officers. The supervisor of public accounts is appointed by the Governor and the Senate. His principal duty is to examine the books of each tax collector, examine bonds of tax collector, and advise the auditor of public accounts of any change in the solvency of the securities thereon. It is his duty to see that all laws governing assessment of property are complied with by assessors. All educational and eleemosynary institutions must furnish him with a statement of all money received and spent. He may examine and audit books and accounts of municipal corporations when directed to do so by the Governor. Any officer of a municipal corporation who neglects to furnish the supervisor with books or documents which he has a right to examine is guilty of "malfeasance and gross misconduct in office and subject to removal."<sup>24</sup>

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<sup>22</sup>The name was changed from Board of State Affairs to Louisiana Tax Commission by the Constitution of 1921.

<sup>23</sup>Marr's *Revised Statutes of Louisiana, Supplement*, 1926, p. 1511. Parish Boards of Equalization were created in 1920. The Louisiana Tax Commission appoints one member to these boards and must give its consent for any reduction of assessment. The parish boards consider city lots and improvements. See *Acts of Assembly*, 1920, chap. 231. These boards have not proved a success. Assessments have been equalized in a perfunctory manner. See *Seventh Annual Report of Louisiana Tax Commission*, 1923, p. 10.

<sup>24</sup>Marr's 1926 *Supplement*, p. 1679.

Central administrative control is, likewise, exercised over municipal bond issues. This seems to be the principal financial check which the State exercises over the cities of Texas. Any city which desires to issue bonds as authorized by the Constitution or statute must, before they are offered for sale, send to the Attorney General the bonds to be issued, accompanied by a certified copy of the ordinance which provides the method of the tax levy to pay interest and provide a sinking fund and a statement of total indebtedness and assessed value of city property.<sup>25</sup> The Attorney General examines the bonds with the accompanying data and certifies them if he finds the issue is in conformity with the Constitution and laws of the State. He may refuse to certify the bond issue if, in his opinion, the issue is inconsistent with the Constitution or State law. However, in this case, the municipality may take an appeal from his decision. If the court decides contrary to the Attorney General's opinion, a writ of mandamus may be granted to force him to approve the issue.<sup>26</sup>

Municipal bonds are registered by the Comptroller, who, at the mayor's request, furnishes a certificate certifying the amount of bonds which have been registered in his office up to date.<sup>27</sup> Administrative control over municipal finance also appears in the article which provides that in case the tax collector refuses to give bond or is negligent in collecting the taxes which are provided for paying the interest upon the bond issue, the city council is to appoint some qualified person in his place; or if the council fails to make an appointment,

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<sup>25</sup>Sayles's *Civil Statutes*, 1914, title 18, art. 619. The Attorney General of Oklahoma prescribes procedure, uniform forms, and passes upon legality of securities issued. Bunn's *Compiled Oklahoma Statutes*, 1921, art. 6, sec. 4284.

<sup>26</sup>*Fort Worth v. Cureton*, 222 S. W. 531.

<sup>27</sup>When thus certified and registered the bonds are held in every action in which their validity is brought into question *prima facie* valid and binding obligations, subject only to the defense of forgery or fraud. *City of Tyler v. B. & E. Association*, 86 S. W. 757.

In Louisiana municipal bonds are registered by the Secretary of State. The taxing officers of the State are authorized to impose and collect taxes in the event a city neglects to impose or collect sufficient taxes for payment of principal and interest of bonded indebtedness. *Marr's Supplement*, 1926, p. 410.

the Governor is required to do so.<sup>28</sup> Finally, the treasurer of the city must make an annual report to the Comptroller of Public Accounts showing the general financial condition of the city. The hand of the central authority is laid upon the city treasurer when his report shows that he has diverted the funds or has failed to make a report. In either case the Comptroller notifies either the Attorney General or the district attorney, who institutes suit against the treasurer and his bondsmen for the amount of fund that has been diverted.<sup>29</sup>

Any city may avail itself by ordinance of the services of the county tax assessor and collector.<sup>30</sup> In this event, these officers assess and collect State, county, and municipal taxes and are subject to State control.<sup>31</sup>

<sup>28</sup>Sayles's *Texas Statutes*, 1914, art. 683.

In Oklahoma the state auditor is authorized, in case of delinquency of the local officer, to ascertain the amount of interest and sinking fund and to certify this amount to the treasurer of the county in which such bonds were issued, specifying the city or town by which issued. Whereupon, the county treasurer proceeds to ascertain from the assessment rolls the amount of taxable property in the city, and to levy a tax rate on the property to take care of the interest, sinking fund, or principal of bonds. Bunn's *Oklahoma Statutes*, sec. 4275.

<sup>29</sup>Sayles's *Texas Statutes*, 1914, art. 702.

<sup>30</sup>Vernon's *Texas Statutes, Supplement*, 1922, art. 938a.

<sup>31</sup>Reports are made to the comptroller of public accounts showing total amount of property subject to taxation—every item of ad valorem, poll, and occupation tax collected. The comptroller certifies to the assessors the rate of taxation for state purposes and for public school purposes as fixed by the state board to calculate the tax rate. James and Stewart, *County Government in Texas*, p. 88.

In Arkansas the city council makes out and certifies to the county clerk the rate of taxation levied by the city on real and personal property. The amount is placed on the tax books by the county clerk and collected in the same manner that state and county taxes are collected. Crawford and Moses, *Digest of Statutes of Arkansas*, chap. 127, sec. 7576.

The county sheriff is *ex officio* tax collector in Louisiana. The City of New Orleans has its own tax assessors and collectors. All collectors of the public revenue are required to transmit a monthly statement to the auditor of public accounts which shows their collections for preceding month. The assessment rolls of the City of New Orleans are subject to inspection and correction by the Louisiana Tax Commission. Marr's *Supplement*, 1926, p. 1500.

The assessment, levy, and collection of taxes in Oklahoma are under state control. County assessors are elected and untrained. They assess city property at one-third to one-half of true value, and as a result the



Central administrative control over city finances in Oklahoma is exercised through county excise boards.<sup>32</sup> This board is authorized to levy all taxes for the city if the city has not its own machinery for doing this. Also every municipality submits to the board a statement showing its financial condition which is accompanied by an itemized statement of estimated needs and of probable income from all sources. The board may revise these statements as it sees fit by increasing, decreasing or adding items. In case the municipality fails to submit an estimate, the board may make appropriations for current expenses and sinking fund.<sup>33</sup>

The excise board may, on call of the chairman, convene at any time for purpose of making supplemental appropriations for current expenses. In this event, the officers of the city file a financial statement showing the condition of the city and a statement of the amount and purposes for which each proposed supplemental appropriation is to be used. If the financial statement shows a surplus in funds available for current expenses, the excise board may make supplemental appropriations to the amount of the surplus. The flexibility of the financial system of Oklahoma is shown by the provision which allows the board, in case the surplus is insufficient for the needs of the city, to cancel any appropriation which has been made to any officer or department of the city.<sup>34</sup> However, a special election must be called before the city can increase its current expenses beyond the limit set by law. The excise board calls the election if it thinks that the expenses are necessary.<sup>35</sup>

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cities have not enough funds to carry out their functions. The remedy proposed is to have state assessment or to have local assessors under strict administrative control by a tax commission. Blachly and Oatman, *Government of Oklahoma*, p. 647.

<sup>32</sup>These boards consist of the county judge, county treasurer, county clerk, county attorney, county superintendent of public instruction, county assessor, and one county commissioner selected by the board of county commissioners. Bunn's *Oklahoma Statutes*, art. 10, sec. 9694.

<sup>33</sup>*Ibid.*, sec. 9695.

<sup>34</sup>*Ibid.*, art. 10, sec. 9700. The officer in charge of the department may appear before the board and protest.

<sup>35</sup>*Ibid.*, secs. 9701-9707. If 50 per cent of the qualified voters take part in the election and vote for an increase, the board takes note of the fact and certifies the increase to the county clerk. The county excise

*Public health.*—The maintenance of public health is regarded as a function which concerns the State at large, and the central authority has the power to adopt sanitary codes which have the force of law throughout the commonwealth.<sup>36</sup> The state boards of health in the Southwest have been active in promoting the public health. To this end they are authorized in certain instances to use coercion. However, the general policy adopted is one of leadership by setting standards and of education as to the primary principles of sanitation and public health. As stated by the sanitary engineers of Texas, "It is the belief and policy of this division that success in promoting the tenets of general sanitation depend upon public education rather than upon any coercion or legal methods that might be resorted to."

The municipalities of the Southwest have their local boards of health which are locally elected or appointed.<sup>37</sup> However, they are considered as auxiliary to, report to, and in general act in harmony with the state boards. No local board of

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board's control is unpopular. It is asserted that the members of the county excise boards are not technically qualified to pass on the city budget and that they are inclined to play politics with the budget. The municipal authorities have a more intimate contact with and more detailed knowledge of municipal affairs. They naturally think it improper to have their work, drawn up after careful consideration, interfered with by the board. It is probable that home rule cities will take advantage of the decision in *Bodine v. Oklahoma City*, 79 Okla. 106. See Blachly and Oatman, *Government of Oklahoma*, p. 646. In this case there was conflict of authority between the city and the county excise board as to the power of revising and correcting the city budget, both claiming the power under charter and statute, respectively. The court held that the terms of the charter must prevail and that the authority to revise and correct the budget is with the mayor and city commissioners.

<sup>36</sup>*Board of Health of State of Louisiana v. Susslin*, 132 La. 569. This case held that the state board had the power to adopt a sanitary code for the City of New Orleans and that such legislation was not repugnant to the constitutional provision which guarantees to New Orleans the right to elect their public officers charged with the exercise of the police powers of the city.

<sup>37</sup>The Governor of Louisiana appoints three members and the city council two to the local health boards of Baton Rouge and Shreveport. Marr's *Revised Statutes of Louisiana*, p. 214.

The state health officer can, subject to the approval of the state board, appoint municipal boards of health in case the city council neglects or refuses to appoint. Marr's *Supplement*, 1926, p. 856.

health has the power in Louisiana to establish quarantine except with approval of the state health officer. In the event that any case of contagious disease comes to the knowledge of the local board, they isolate the case and communicate the fact to the state board. This authority sends an expert physician to diagnose the disease, and to advise the local authorities as to best methods for preventing its spread.<sup>38</sup>

There is no uniformity as to the methods of selecting the local health officer. However, in Texas he is not legally qualified for the duties of his office until he has filed a copy of the oath and of his appointment with the State Board of Health. It is the practice for the State Board to appoint the city health officer whenever the municipality fails by neglect or refusal to fill the office. This officer may be removed by the State Board for improperly discharging his duties.<sup>39</sup> His duties are two-fold: those which he performs as required by the city council, and those which are required of him by the State. By State law he is required to assist the Board in all matters of quarantine, vital and mortuary statistics, disease prevention and suppression, and sanitation.<sup>40</sup> Some degree of coöperation between the State Board and local health officers is had by annual conferences. These conferences are held at different cities. The president of the State Board presides. They have proved valuable as a means of promoting a spirit of coöperation and by permitting an interchange of ideas.

Louisiana's largest city is guaranteed the right by the Constitution to elect those officers whose duties are essentially of a local nature. It is recognized that water and sewage boards are of this character. The State Supreme Court has held that the power which a board has of reaching out into the neighboring parishes is incidental and for convenience and that the board is as essentially local as the city council or any other functionary having charge of affairs of city. Therefore, a statute which incorporates into its membership *ex officio*

<sup>38</sup>*Ibid.*, p. 858.

<sup>39</sup>Vernon's *Annotated Texas Statutes*, 1925, arts. 4425, 4431, 4526. Marr's *Statutes of Louisiana, Supplement*, 1926, p. 856. Crawford and Moses, *Digest of Statutes of Arkansas*, sec. 5158.

<sup>40</sup>Sayles's *Texas Statutes*, 1914, art. 4548. Crawford and Moses, *Digest of Statutes of Arkansas*, 1921, sec. 5159.

officers who were not elected by the city council or appointed by the mayor is a violation of the constitutional provision which provides that the electors of the City of New Orleans "shall have the right to choose the public officers who shall be charged with the exercise of the police power and with the administration of the affairs of the city in whole or in part."<sup>41</sup>

Supervision of municipal water supply in Texas is exercised through the division of water, sewerage and waste disposal.<sup>42</sup> There are 460 incorporated cities in the State, 400 of which have public water supplies. Therefore the division has found it impossible with its present staff to exercise personal supervision in every city. The division field force of engineers and inspectors visit approximately three hundred and fifty supplies each year. They give advice to the operators as to operation and make recommendation for improvements. The division, as noted, has found it difficult to make visits of inspection to all the municipalities maintaining public water supplies. However, it has endeavored to overcome this handicap and render some service to all the cities of the State by holding a school for filter plant operators where the problems of water supply are discussed by experienced operators and engineers. This school is held annually. It brings together the designing engineers, waterwork commissioners and any others who are interested in problems of water protection and purification. There have been eight annual schools of this character. They are usually held at those cities where adequate laboratory facilities are offered. The period of instruction, which includes lectures on various aspects of water purification and inspectorial trips, lasts for one week. The registration at the eighth school, which was held at Fort Worth, January 20, 1926, reached 222. The registration list shows a good attendance

<sup>41</sup>*State v. Kohnke*, 109 La. 838.

<sup>42</sup>In Oklahoma the bureau of sanitary engineering of the State Board of Health investigates the character of a water supply on its own initiative or when complaint is made by any city. The bureau may order a change in source of supply, manner of storing, or method of purification. Appeal lies to the district court. No company or municipal corporation may let a contract for public water supply without a permit from the State Board of Health. The application must state source, description of manner of storage, and method of purification. *Oklahoma S. L.*, 1917, chap. 166.



from the larger cities in the State. However, the smaller cities and towns which maintain public water supplies are by no means all represented.<sup>43</sup>

The State Board of Health recognizes that certain subjects are of a local nature and therefore adopts an advisory policy. It has been the experience of the Board that better results can be secured by this policy than by arousing the ill will of the locality by mandatory or coercive methods. Water supplies are regarded by the division as a local problem of the city. The State Board has not attempted to coerce any city into building or remodeling an existing plant. Rather the division points out the necessity of providing a safe water supply and recommends the proper procedure for attaining that end. A mild coercive policy is adopted, whereby the municipalities are stimulated to protect the public water supplies. This takes the form of classifying the public water supplies in the State into three classes, A, B, C, based upon methods of control and treatment and regularity of reporting to the department. Lists of cities thus classified are published periodically. Those municipalities are placed in Class A where the water supply is reasonably safe for drinking purposes at all times. This classification also means that the city submits regular monthly reports, has a trained operator in control of the plant, inspects its water in its own laboratory, or forwards specimens to the Department of Health for bacteriological analysis. Cities are placed in Class B which do not file regular reports and where the safety of the supply is questionable. Class C includes those municipalities whose water supply is regarded as unsafe for drinking purposes.<sup>44</sup>

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<sup>43</sup>The Division of Water, Sewage, and Waste Disposal fosters, also, an annual school for the instruction of the health workers and sanitarians of Texas. The period of instruction lasts one week and covers by lectures the various phases of public sanitation.

<sup>44</sup>*Biennial Report of State Health Department, 1923-1924*, p. 20. Sewage disposal is regarded as a matter of more than local importance since a city on the lower reaches of a river is vitally interested as to how its neighbor manages this function. The State Board of Health is authorized to enforce the provisions of the Anti-Stream Pollution Act and functions for this purpose through the Division of Water, Sewage, and Waste Disposal. When a corporation violates the act, the mayor and each member of the board of aldermen or commission are held as representatives of the municipality and are subject

Vital statistics, the problem of keeping adequate records of all births and deaths in the State is one of more than local interest. Recognizing the importance of this subject, the State has passed legislation and by a certain degree of administrative control has endeavored to enforce the law. Every incorporated town and city is a primary registration district. The city health officer is also city registrar.<sup>45</sup>

The State Registrar prepares and supplies forms to the city registrars to be used in reporting births and deaths. The local registrar sends the forms with instructions to those within his jurisdiction who are required to make reports.<sup>46</sup> Each certificate is examined by the city registrar when received. If it is not complete or satisfactory, he may require such further information as is needed to make the record complete. He keeps a record in a "permanently bound book" and sends the original certificate to the State Registrar, who upon receipt examines it and if he finds it not complete may return it to the city registrar for additional information. The State Health Officer is empowered upon the written recommendation of the State Registrar to petition the city council

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to indictment. The division, clothed with power by the Anti-Stream Pollution Act, has been successful in arousing interest in cities as to proper construction of treatment plants and sewage disposal systems. The division, as in the case of water supply, classifies and publishes lists of cities as to methods of waste disposal.

Other subjects which are of both local and general interest, and which have brought the State Board of Health in contact with the municipalities, are malarial control, municipal parks and swimming pools, administration of the Pure Food Act, and the preparation of standard milk ordinances which the municipalities are encouraged to adopt in order to increase the consumption of milk by establishing confidence in its purity and healthfulness.

The State Commissioner of Health in Oklahoma carries out the provisions of the Pure Food Law and for this purpose is empowered to issue rules and regulations not inconsistent with the law. He makes annual reports to the Governor. It is the duty of the city health officer to report all violations of the act. Samples of food and drugs are sent to the State laboratory for analysis. If an article is found adulterated, the State Commissioner of Health certifies the fact to the county attorney of the county from which the sample was taken. Bunn's *Compiled Oklahoma Statutes*, 1921, secs. 8865-8869-8871.

<sup>45</sup>*Sanitary Code of Texas*, Rule 37.

<sup>46</sup>*Ibid.*, Rule 53.

to remove the local registrar, in which case the council appoints some qualified person in his place.<sup>47</sup>

It is seen that the control of the State administration over the city in order to secure the adequate performance of this function of gathering vital statistics is indirect. The city registrar is also the city health officer who is locally elected or appointed by the council. If the local health officer neglects or refuses to perform his duties as a statistician the State administration can only act upon him indirectly, that is, by petitioning the council for his removal. The result has been that "statistically Texas does not exist." According to the report of the Director of the Bureau of Vital Statistics the State has not been placed in the registration area due to the "unthoughtfulness of her parents, undertakers, midwives, registrars, and physicians." He desires accurate and complete certificates to "rest in our archives," and hopes to secure this end by "heartly coöperation of all those concerned."<sup>48</sup>

However, if it has proved difficult to secure adequate information for vital statistics it is probably due to the present indirect method of State control. Therefore, it would seem that the logical solution would be for the State to exercise more direct control by giving the State Registrar the power to remove the local registrar or to appoint and remove.<sup>49</sup> A more centralized control over the municipalities in the administration of this function will secure a full and more accurate record of vital statistics.

<sup>47</sup>*Ibid.*, Rule 37.

<sup>48</sup>*Biennial Report of State Board of Health, 1923-1924*, p. 28.

<sup>49</sup>In Oklahoma the State Health Commissioner has general supervision over vital statistics. He prepares the forms, appoints the State and local registrars. He may remove local registrars for inefficiency. S. L., 1917, chap. 168.

The township is a registration district for vital statistics in Arkansas. The State Registrar and county judge appoint local registrars. However, if a city is located in a township, the city clerk is local registrar. Crawford and Moses, *Digest of Statutes of Arkansas*, sec. 5149.

In Louisiana the State Board of Health may appoint and remove the local registrar for each district, the City of New Orleans excepted. Local registrars are charged with the enforcement of the law under the supervision of State Registrar. The latter can investigate personally any irregularities or violations of the law and can make affidavit of facts upon information and present to the Attorney General for prosecution. Marr's *Louisiana Supplement*, 1926, p. 1713.

*Public education.*—There is a considerable amount of central administrative control over public education. However, due to the isolation of the school system from the municipal government, it may require a stretch of the imagination to bring public education into a study which purposes to determine the extent of administrative control over such municipal functions as are exercised by municipal authorities as one of the ordinary branches of the city administration. The independent attitude of the public schools tends to attenuate the contact of the school system with the municipality and in some cases it is removed entirely from municipal control.<sup>50</sup> The school authorities justify this separation of the schools from the ordinary municipal functions on the ground that education is a state function; that education is so important a function of local government as to require it to be handled by a separate local authority; that the schools will be better supported if independent of the city government in that they do not have to present their budget estimates to some central city authority and therefore do not have to compete against health, police, street or other departments for a share of the public funds. Finally, it is said that the schools should be kept free from municipal control in order "to keep them out of politics." Each of the above allegations can be logically refuted, and it may be noted as pointed out by an authority that "one fallacy which runs through the arguments for separation of the schools from the city government is the idea that the schools are *sui generis*, something entirely unlike anything else in the range of governmental functions. This view is without foundation in either history or reason. National, state, and local governments exist to promote the general welfare. In working to this end they provide numerous utilities and services, education being one of them, and one

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<sup>50</sup>"The cities of Oklahoma have no control over their school systems in any way except that cities over five thousand may, by charter provision, determine the members of the school board, their terms of office, the time and manner of their election; and may attach adjacent territory outside the city but in the school district to the appropriate voting precinct. The school district is a separate corporation; and although each city of the first class constitutes an independent district, this corporation as such is entirely unrelated to the municipal corporation within whose area it may lie." Blachly and Oatman, *The Government of Oklahoma*, p. 642.



which came in relatively late. In aims, method, and in the means used, it is not essentially unlike other functions of government."<sup>51</sup>

State administrative supervision over the function of public education in Texas has been in the interest of equalizing opportunities, standardizing curricula, and raising the standards of the school equipment and instructing staff.<sup>52</sup> State aid is granted to rural and small town schools as a means of equalizing educational opportunities. However, this grant is conditioned upon the schools meeting certain standards. The State Superintendent of Public Instruction or a supervisor visits every school of this character and investigates conditions to ascertain whether aid is justifiable. Aid is granted on recommendation if approved by the State Board of Education.<sup>53</sup>

High schools are classified on the basis of organization of classes and maintenance of physical standards. Classification is a legal term. It embodies certain minimum requirements that must be met. Accrediting has special reference to the quality of classroom work. An accredited high school meets college requirements both as to physical and professional standards. Accrediting is done by a State Commission of twelve members composed of representatives for the State institutions of higher education and for the public schools. The division of high school supervision administers the legal requirements concerning classification and the rulings of the

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<sup>51</sup>See Anderson's *American City Government*, pp. 90-94, for a stimulating discussion of this point.

<sup>52</sup>Municipal libraries are also subject to a small degree of State administrative control. The State Librarian ascertains the condition of all public libraries in the State and reports results to the State Library and Historical Commission. He is authorized in his discretion to withhold from libraries which refuse or neglect to send their annual reports, public documents, or inter-library loans. *Revised Civil Statutes of Texas*, 1925, title 89, art. 5441.

<sup>53</sup>*Texas School Laws*, sec. 1, p. 13.

In Arkansas no State aid is granted for general school purposes to any schools located in a city where the population exceeds 3,500. Annual reports are required and the courses of study are prescribed for those schools receiving State aid. Likewise, in this State every city where the population between 6 and 21 years exceeds 5,000 is exempted from the jurisdiction of county superintendents. Crawford and Moses, *Digest of Statutes of Arkansas*, secs. 8790, 8791.

State committee with regard to accrediting. The division does not assume a dictatorial attitude towards the schools. It calls their attention to the standards that are set up. Certain privileges are given those schools which attain these standards. The supervisors visit each accredited high school in the State. They discuss local school problems with school boards and citizens.<sup>54</sup>

Any city or town may acquire exclusive control of the public free schools within its limits. The question as to the city's control may be initiated by a petition of fifty qualified electors, whereupon the mayor calls the election at which the question must be supported by a majority of the votes cast. This does not tend to remove the city schools entirely from under the control of the State since they remain subject to general laws. The municipality after assuming this control gives notice to the State Board and receives such pro rata of the available school fund as its scholastic population entitles it to.<sup>55</sup>

*The State Police.*—The State largely depends upon local officers for the enforcement of law. However, that the peace be enforced is a question of more than local interest. Occasions have arisen in Texas when the State Police have been employed to invade the municipality and act where local police officers have failed to enforce the law.<sup>56</sup> As Governor Neff has stated, "There is no such thing as local self government in regard to violations of the law. Every crime that is committed is a crime against the State."<sup>57</sup>

The State Police force of Texas, or the better known Texas Rangers, have existed since the days of the Republic. Their statutory powers are "to protect the frontier against marauding or thieving parties, to suppress lawlessness and crime throughout the State, and to aid the enforcement of the laws of the State."<sup>58</sup> There is no longer the demand for border service such as formerly existed when bands of Indians from the southern neighbor made raids on the thinly populated frontier settlements. The reputation of Texas Rangers for

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<sup>54</sup>*Twenty-third Biennial Report, State Board of Education of Texas*, p. 49.

<sup>55</sup>Vernon's *Texas Civil Statutes, Supplement*, 1922, arts. 2867, 2871.

<sup>56</sup>See *Report of Adjutant General*, "State Ranger Activities," 1922.

<sup>57</sup>From an address at Floresville, Texas, December 30, 1922.

<sup>58</sup>Vernon's *Texas Statutes*, 1925, art. 6560.

bravery and skill with firearms was won in these early skirmishes with thieving parties. This reputation still clings to the Rangers as a tradition. There is nothing so quieting to a riotous young oil city as their presence. They are, today, effective agents of the Governor in carrying out his duty of "seeing that the laws are faithfully executed." For this purpose they are clothed with the powers of peace officers. The law provides that "they shall aid the regular civil authorities in the execution of the laws."<sup>59</sup>

The force is under the command of the Governor.<sup>60</sup> He may send them to any locality on request or without the request of the local authorities. They have been sent to aid the local officers to quell the situation which has arisen incident to strikes. It is quite customary for a booming oil city to get out of the control of the local peace officers. In this event the Rangers are sent to enforce the laws of the State.

A recent case of the use of the State Police in municipalities was in San Antonio. They were ordered by Governor Neff to this city over the opposition of the city authorities to enforce the gambling and liquor laws. The significant thing which developed out of this contact of the Rangers with city authorities was the litigation which tested the constitutionality of the force. A private citizen brought suit for injunction against the Governor, Adjutant General, and the officers and members of the force to prohibit the further recognition of the existence of the force. The principal reason advanced by the plaintiffs in their effort to have the Ranger force abolished were that the act which clothed the Rangers with powers of peace officers usurped the sheriff's powers; that the Governor's executive powers were enlarged beyond the Constitution's intent; and that the act interfered with local self-government in that it deprived the people of the right to elect their own peace officers. In answer to these contentions the court held that the act creating the force does not interfere

<sup>59</sup>*Idem.*

<sup>60</sup>The Governor appoints the officers and enlisted men. He may remove for cause. The statutory size of the force is one headquarters company and four companies of mounted men. The headquarters company consists of one captain, one sergeant, and four privates. Each mounted company consists of one captain, one sergeant, and fifteen privates. *Ibid.*, art. 6561.

with local self-government and that the law does not contemplate any interference by Rangers with the duly elected officers, but provides that Rangers shall assist these officers in upholding the law and preserving peace.<sup>61</sup>

*State fire control.*—Central administrative control is exercised over municipalities in the interest of fire prevention. To make this supervision effective the southwestern states have created the office of State Fire Marshal.<sup>62</sup> The Governor is authorized to appoint the Marshal. It is of interest to note that the process of centralization in Louisiana was temporarily halted in 1904 when the State Supreme Court set aside the act of the Legislature which had created the office of fire marshal. This act was set aside by the court for the reason that it conflicted with a provision of the Constitution which granted to the City of New Orleans the power to elect local officers and to administer its local affairs.<sup>63</sup> An amendment was added to the Constitution in 1913 recognizing the office. Administrative supervision is had through this officer by the statutory provision which allows him to visit at the request of the mayor or chief of the fire department any place within the city where a fire has occurred. He investigates the cause of fire to determine whether caused by accident, carelessness, or design. In Texas he makes a written report of his investigation to the State Fire Insurance Commission. It is also in line with his duties to inspect buildings on the complaint of any person and to require the removal of combustible material or fire hazards. He is authorized to apply to the courts for special writs to enforce his demand.<sup>64</sup>

It is obvious that state control over cities with reference to fire prevention would indeed be slight if the State Fire Insurance Commission had to depend on the State Fire Marshal alone. Therefore, to make this supervision more constant

<sup>61</sup>*Neff et al. v. Elgin*, 270 S.W. 873. The injunction was granted by the district court, but was set aside by the Court of Civil Appeals.

<sup>62</sup>*Vernon's Texas Statutes*, 1925, art. 4877. Crawford and Moses, *Statutes of Arkansas*, chap. 48. Marr's *Revised Statutes of Louisiana*, p. 1089.

<sup>63</sup>*State v. Lafayette State Fire Insurance Company*, 134 La. 78. The State tax collector of the City of New Orleans brought the suit to compel the defendant to pay a tax for salary of State Fire Marshal.

<sup>64</sup>*Vernon's Texas Civil Statutes*, arts. 4896, 4897, for 1925.



the Commission has drawn up an ordinance which creates the office of city fire marshal and prescribes his duties.<sup>65</sup> This ordinance is elective only, but it is to the interest of the municipality to adopt it and conform with the other standards required by the State Commission, inasmuch as fire insurance premiums are reduced to the degree that they conform with these requirements. Adopting the ordinance and providing for a city fire marshal will give the insuring public of the city a key rate credit of 3 cents on ever \$100 of fire insurance written.

The city fire marshal, as provided by the ordinance, is appointed by the mayor. It is his duty to investigate within twenty-four hours after its occurrence the cause of every fire and to ascertain whether or not it was the result of carelessness or design. He keeps a record of all fires and transmits a copy to the State Fire Insurance Commission. It is an important duty of the city fire marshal to prevent fires. To attain this end he is required to make inspections. He checks upon general conditions found in the streets, alleys, and buildings. When conditions are found that are fire hazards he gives notice both oral and written for their removal. After a reasonable time, he reinspects to see whether the hazard has been removed. The owner of the building has an appeal to the mayor, but if the mayor sustains the fire marshal's orders the owner must comply or is liable to fine.

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<sup>65</sup>In Oklahoma it is the chief of the fire department of the city and the mayor in every incorporated village in which no fire department exists who investigate under the supervision of the State Fire Marshal the cause of every fire. The State Fire Marshal's jurisdiction is concurrent with that of municipal authorities in those cities which have building inspection and fire-limit ordinances. He makes official visits to the cities, during the course of which he delivers fire prevention addresses, makes general and particular inspections, issues orders for correction of defects, and issues bulletins on the subject of fire prevention. He may also make arrests for incendiarism. Bunn's *Compiled Oklahoma Statutes*, 1921, secs. 95-98.

Chiefs of fire departments and town marshals of towns in Louisiana investigate causes of fire under direction of the State marshal. The State marshal has power to summon witnesses, administer oaths, and cause removal of combustibles. His salary and expenses are defrayed by fire insurance companies doing business in the State who pay a tax on their gross annual premium receipts. Marr's *Revised Statutes of Louisiana*, p. 1089, sec. 3157.

There is another method by which pressure may be brought to bear upon the negligent individual who is prone to leave fire hazards scattered about his premises. The pressure is brought to bear by the State Commission. The city marshal is required to report a list of hazards which he has failed to get removed. These reports are made out once a month on forms furnished by the Commission. They contain information as to names and location of property where the owners have not corrected conditions and specify the particular unsafe conditions found. These reports are examined by the State Fire Marshal who notifies recalcitrant individuals, stating the character of the fire hazards found upon their premises and informing them that unless correction is made within ten days insurance rates will be increased. The proper correction can usually be secured by raising the insurance rate. These charges are added to the final rates and are graded according to the gravity of the conditions.<sup>66</sup>

The above discussion refers to State supervision over the individual in the interest of fire prevention. The city comes in only to the extent that the individual is a citizen of the municipality and that the State works through the city fire marshal. There is, however, an indirect supervision exercised over the municipality on this same subject. The individual's rate for fire insurance depends upon the extent to which he by his own efforts frees his premises of dangerous and combustible material. Also, his rate of insurance and that of the city on public property depend upon the equipment that the city maintains for fire prevention and control.

The Commission classifies the cities of the State by a key-rate. The key-rate is a figure "which represents as accurately as possible the aggregate deficiencies in the fire protection, together with such unfavorable physical conditions as tend to increase the chances for large sweeping fires or to impede the

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<sup>66</sup>For instance, conditions which the key-rate indicates as particularly dangerous are unsafe flues and chimneys in frame buildings, for which an exceptional charge of 20 cents on the hundred dollars is added; rubber base gas connections have a charge of 25 cents; and an accumulation of empty barrels or boxes has a charge of 25 cents. *Key-Rate Schedule*, State Fire Insurance Commission, 1922, p. 5.

work of fire fighting." A city's key-rate will be zero if it complies with the requirements of the Commission.<sup>67</sup>

Charges are made for departures from the requirements according to their gravity. For example, a charge of 50 cents is added to the key-rate for lack of waterworks, and for alleys less than fifteen feet wide, 2 cents. If there is no fire marshal, or if he is inefficient and does not report regularly to the State Fire Insurance Commission, the charge is 3 cents.<sup>68</sup> On the other hand, the municipality is allowed credits for superior equipment or particular efforts made to prevent fires. For instance, a credit of 3 per cent is allowed for teaching the principles of fire prevention in the public schools; 2 per cent for arson rewards when no less than \$100 for arrest and conviction; and 5 per cent for an efficient night watch service. Also, the State Commission is authorized by statute to give credit of 15 per cent to any town or city which has a good fire record.<sup>69</sup> That is, in those cities where fire is rare or under efficient control the insurance rate is low. A fire epidemic of short duration in such a municipality will result in a raising of rates. This power of the Commission to increase or decrease the rates of insurance stimulates the city to have a good fire record.

Finally, it may be noted that the State exercises some degree of administrative control over municipalities in regard to providing means of escape from public buildings. The law requires that every city must provide an adequate fire escape for public buildings over three stories in height used for public assemblies, schools, or sleeping apartments. The State Fire Marshal is authorized to order that fire escapes be installed when inspection shows that buildings of the above character are inadequately equipped or non-equipped.<sup>70</sup>

<sup>67</sup>These requirements are adequate water supply, cast-iron water mains of six-inch diameter as a minimum, standard two-way hydrants uniformly spaced and inspected periodically, a full-paid fire department adequately equipped, an approved fire alarm system, an adequate building law well enforced, principal streets paved, alleys paved or macadamized and not less than fifteen feet wide, a fire marshal.

<sup>68</sup>*Key-Rate Schedule*, State Fire Commission, 1922, p. 14.

<sup>69</sup>Vernon's *Texas Civil Statutes*, 1925, art. 4886.

<sup>70</sup>*Ibid.*, art. 3959.

The Fire Escape Law of Louisiana requires every public building having more than two stories to be equipped with fire escapes. The

*Regulation of public utilities.*—Privately owned public utilities are quite generally subject to centralized control and regulation. Oklahoma maintains a corporation commission which is endowed with plenary power to fix rates, make regulations, visit and inquire into the operation and management of municipal utilities in so far as these utilities are not municipally owned or operated. Rate-making as to private corporations furnishing these services within the limits of a city is exclusively exercised by the commission. This is based on the theory that rate-making is more than a municipal problem, that it is a sovereign function and therefore superior to the interest of the chartered city.<sup>71</sup>

In Arkansas control over companies furnishing public services is vested in the Arkansas Railroad Commission. The municipalities of this state may acquire the property of a public utility by an election. If a municipality and the party of sale are unable to agree as to just compensation then the Railroad Commission, after a notice and time for hearing, fixes the compensation which the city shall pay for taking a public utility "for the convenience of the public." A municipality thus owning and operating a public utility is not subject to any supervision or regulation on the part of the Commission. Furthermore, the city, if it does not see fit to own and operate the utility, may extend its jurisdiction to companies furnishing such services within its limits. This jurisdiction is not restricted, as in the cities of Oklahoma, to a mere power to grant a franchise, but may be exercised to regulate the rates and operation of the public utility.<sup>72</sup>

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State Labor Commissioner enforces the act under the supervision of the State Fire Marshal. Wolff's *Statutes of Louisiana*, 1920, p. 842.

It is the Commissioner of Insurance and Revenue in Arkansas who enforces the Fire Escape Law, investigates incendiary fires at request of the mayor, and furnishes information as to proper construction of buildings and methods as to fire prevention. Crawford and Moses, *Statutes of Arkansas*, chap. 98, arts. 5950, 5954.

<sup>71</sup>Blachly and Oatman, *Government of Oklahoma*, p. 200.

See *Pawhuska v. Pawhuska Oil and Gas Company*, 64 Okla., p. 214; and *City of Bartlesville v. Corporation Commission*, 199 Pacific, p. 396. Doctor Blachly states that there is not much opposition on the part of Oklahoma cities to the regulation of rates and services by the corporation commission.

<sup>72</sup>*Acts of Arkansas*, 1921, art. 124.



In Texas the gas utility division of the Railroad Commission regulates those companies supplying natural gas to cities. A city may reduce the gas rate, but the utility affected may appeal to the Commission which after a hearing determines such rate as is deemed reasonable. Applications for increasing the gas rate are first made to the city government. If the city rejects the application or refuses to act within ninety days, the gas utility may appeal to the Commission.<sup>73</sup>

The City of New Orleans, as noted above, is protected in the exercise of its local affairs by the constitutional provision which gives the city electors the right to elect their own officers and to control their ordinary governmental functions.<sup>74</sup> Therefore, any attempt by the Legislature to extend over the city central administrative control by creating a board or commission to control any of its activities is usually questioned in the courts. For instance, the Legislature attempted to create and to vest in the Governor the power to appoint a board of public utilities for the City of New Orleans. The Supreme Court of the state held the law void as conflicting with this provision of the Constitution.<sup>75</sup>

It, therefore, becomes necessary to adopt constitutional amendments before the state government in Louisiana can extend effective administrative control over its largest city. Provision has been made in the fundamental law of Louisiana for the board of commissioners of the port of New Orleans.<sup>76</sup>

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<sup>73</sup>Vernon's *Texas Civil Statutes*, 1925, title 102, art. 6058.

<sup>74</sup>Art. 14, sec. 22.

<sup>75</sup>*Board of Public Utilities for City of New Orleans v. New Orleans Railway and Light Company*, 145 La. 308.

As noted before, the statute which created the office of State Fire Marshal was declared unconstitutional.

In *Benedict v. City of New Orleans*, 115 La., p. 645, the question of the right of a municipality to manage its local affairs free from central administrative control was again brought before the court. The Legislature had created a mixed commission, a part of the members of which were appointed by the Governor, for the purpose of erecting a courthouse in the City of New Orleans. On first hearing the statute was declared unconstitutional on the above grounds. On a rehearing, the decision was reversed for the reason that the building in question was to be used jointly by both city and State courts and was therefore a building of more than local interest.

<sup>76</sup>*Constitution of Louisiana*, art. 7, sec. 16.

This board is appointed and is subject to removal by the Governor. It is authorized to supervise the port activities of the city. The Secretary of State, on failure of the board, may collect the revenue of the port and apply it to the payment of the principal and interest of bonds after deducting the necessary operating expenses. Accounts of the board are audited by the State Auditor.

The Constitution of Louisiana has established the Louisiana Public Service Commission for regulating and supervising all public utilities.<sup>77</sup> However, the creation of the Commission has not deprived the cities of their power to control such utilities. For Section 7 provides that, "Nothing in this article shall affect the powers of supervision, regulation and control over any street railway, gas, electric light, heat, power, waterworks, or other local public utility, now vested in any town or city." The city may by an election vest its privilege in the Commission. The municipality may likewise reinvest itself with such powers of control.

*Conclusion.*—It is thus seen that central administrative control over municipalities in the Southwest is exercised only in a limited extent and in a haphazard manner. The greatest control is found in Oklahoma. The least is found in Arkansas. Despite the fact that Oklahoma's county excise board and Attorney General's law do not function efficiently they are the two most interesting devices by which the state asserts its interest on the one hand in municipal finance and on the other in municipal officers. Texas has the only state police force in the Southwest. It is a mobile, quick-on-the-trigger, picturesque body which can easily and quickly be detailed for service within the limits of a city. The municipalities have not undertaken a large program of ownership and operation of public utilities. However, the states are in agreement in not hampering the activities of municipalities in performance of such functions.

The results of administrative control are hard to measure since such control is still in its experimental stage. However, there can be no doubt that it has been greatly beneficial in the fields of public health and education. The progress towards a better public school system and improved public health is

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<sup>77</sup>*Ibid.*, art. 6, secs. 3-7.

especially noteworthy in the State of Louisiana. These subjects are the ones in which the State has the greatest interest. They are the subjects in which administrative supervision and control have been the best organized and the most constant.

Central administrative control is limited in the Southwest for the following reasons: it is primarily an agricultural country;<sup>78</sup> the urban population opposes any extension of central administrative control as prejudicial to their rights of local self-government; the leveling spirit of the frontier, which is still present, calls for the long ballot; there has been very little done in the way of integrating related administrative agencies.<sup>79</sup> Integration is necessary before centralization is practicable. Integration is the first problem in the Southwest. The administrative branch must catch up the loose ends of its organization before a plan of administrative control—whether it is to be exercised through a local government department or by means of orders from the department which has jurisdiction of the particular power desired—can efficiently be carried out.

Finally, we arrive at the question of the degree to which central administrative control over municipalities should be carried. It is certain that it should not be extended so far as to deprive the cities of the power to decide for themselves their own affairs. The city exists for the satisfaction of local needs and as an agent of the state for the performance of duties of a general interest. As to the latter, whatever they may be, the state should exercise control. Administrative control affords the most flexible type. Its advantages are effectively enunciated in the following quotation: "The principal business of the central authority should be to give instruction; of the local authority, to apply it. Power may be localized, but knowledge, to be most useful, must be centralized; there must be somewhere a focus at which all its scattered rays are collected, that the broken and colored lights which exist elsewhere may find there what is necessary to complete and purify them. To every branch of local administration which affects the general interest there should be a

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<sup>78</sup>In Arkansas the percentage of urban population is 16; in Oklahoma, 26; in Texas, 32; and in Louisiana, 34. *Statistical Abstract, U. S.*, 1923, p. 39.

<sup>79</sup>Stewart, F. M., *The Reorganization of State Administration in Texas*.

corresponding central organ, either a minister, or some specially appointed functionary under him; even if that functionary does no more than collect information from all quarters, and bring the experience acquired in one locality to the knowledge of another where it is wanted. But there is also something more than this for the central authority to do. It ought to keep open a perpetual communication with the localities: informing itself by their experience, and them by its own; giving advice freely when asked, volunteering it when seen to be required."<sup>80</sup>

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<sup>80</sup>Mill, John Stuart, *Representative Government*, chap. 15, quoted by Anderson, *American City Government*, p. 71.



## ANTHROPOLOGY AS AN ELEMENT OF RATIONAL EDUCATION

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Due to the fact that only a small fraction of even the educated public has any considerable knowledge of organized technical anthropology, it is necessary before engaging in an effort to give this line of study a logical place in a system of general education to define its terms and delimit its fields. To avoid running into lengthy technical accounts of mooted or controverted points, both definitions and field limitations may be taken as meant only to give point and consistency to this discussion. They represent, however, essentially the definitions and divisions that are generally accepted by both anthropologists and scientists in related lines.

If we take the term anthropology in its English and American sense and disregard the continental interpretation, perhaps it cannot be more aptly defined than to call it "the science of human origins, physical, mental and social." Its definition as "the science of the natural history of man" amounts practically to the same thing. In this broad sense, all social sciences, in their generic aspects at least, are special fields in the general science of anthropology. Some museums treat all objects having a human origin as pertaining to this science. Obviously no comprehensive general science of anthropology can be worked out without using the elements of the narrower social sciences where they are needed.

Some of the subject matter of this science has long been studied and even organized as forms of learning. Since human curiosity about the world first began to differentiate between nature and man, the latter has been keenly interested in both and in their relations; this interest has given us all of our science. Huxley said, many years ago, that the subject matter of rational education is "nature and her forces and man and his ways." Those scholars and specialists who were interested in branches of learning dealing with "man and his ways" developed antecedent to the current effort at organizing

a systematic treatment of the biological and social history of man have been partial, not to say capricious, in their selection of fields and subject matter.

History, for instance, grew out of literature and continues to exhibit the marks of its origin. It has never attempted by a systematic comparative method to account for the evolution of culture and to evaluate its elements. Going back from the present, it stops at the beginning of written records, and within this short period it gives its attention chiefly to the dramatic and heroic episodes of organized human life.

Economics is so intent upon the current problems of labor, rent, wages, interest and capital, and upon what it deems to be the practical aspects of its field, that it has had no time to inquire into the origin of the sense of property or of the early forms of property or of property rights. It makes no study of the relative property sense and property interest of the various races and peoples and the larger social consequences of the great differences that exist, for example, between the negro and the white, in respect to this very important matter. Domestication of animals and plants, the early forms of the control and use of land, in fact, nearly all of the genetic aspects of economics have been ignored by the economists.

Sociology, in this country at least, has grown largely out of theology and organized charity. Very nearly its whole end and aim to the present time have been the melioration of present extreme conditions of poverty, disease and crime. It refuses, generally, to attempt to see where its humanity comes from and what heredity, race and natural character in man amount to. No small number of sociologists hold at present to an extreme form of equalitarianism which amounts to a saving faith.

Political science can hardly be scientific until it is based more largely than at present on a knowledge of the beginnings and early development of the arts of government. It is very doubtful if current teachings in this field take enough into account the influence of conquest in giving government its character in early society. Probably too much stress has been put upon the patriarchal origin of government and not enough upon the necessity on the part of conquerors of maintaining themselves as a ruling caste among the conquered and the consequent militarism which gave the soldier a preëminence

in political life that has not yet altogether disappeared. Some of the facts involved belong to the field of history, but many of them, as in the case of the early relations of the nomad herders to the village dwelling valley peoples in the old world, are pre-historic and must be worked out in archaeology and ethnology. In any case, some knowledge of the effects of the earliest conquests, of the history of the power of the patriarchal chieftain and of the medicine man, and, especially, of the specific political aptitudes of races and peoples is important in building up a real science of government.

Psychology, as the name implies, had its origin in theology, and so eager are its votaries to get away from its past that they have become the most extreme advocates of mathematical measurements as the only basis for scientific conclusions. Psychologists are now so intent upon the study of behavior in the laboratory that they seem to be unable to realize that the social behavior of man cannot be brought into the laboratory or that evidences of much of man's most essential behavior are scattered all over the surface of the earth in the materials of archaeology. These are quite as proper subject matter for scientific observations and conclusions as are the fossils in the rocks or even the measurement of reaction time in the laboratory. In short, the genetic aspects of psychology, certainly of social psychology, have been as much neglected by the specialists in this field as have been those of history, economics, sociology and government, by the respective specialists in those fields.

Palaeontology is interested in the coming of man on the earth but as soon as it arrives at evidences of the early human arts it is facing a new and complicated field and has to leave off or take on a new specialism. The materials which force this specialism are much better handled by those who are familiar with the whole history of man's social and economic life. The physical history of man is more successfully studied and more completely understood by those who know the history of his tool-using and social activities in addition to the general history of organic evolution, than is possible by those who know only the latter.

Biology has the same difficulties and limitations in dealing with the world of man's mental and social organization as palaeontology.

It is evident, then, that there is no possibility of having a complete and logical science of the natural history of man by exploring only in the fields mentioned. Taken together, they do not cover the whole ground, and all are limited in their efforts at general explanations of "man and his ways" by special interests or by the traditions of their past activities.

Without contending with any of the other sciences for fields which they have preëmpted, anthropology, by nearly common consent, can now be regarded as entitled to investigate facts and organize them into scientific categories in the following fields: (1) physical anthropology, dealing with the origin of man and with the criteria, facts and meanings of race; (2) ethnology, a study of the living races and peoples with emphasis on their distinctive manners and customs, including comparative linguistics and folk-lore; (3) archaeology, particularly the pre-historic field of archaeology, dealing with the history of man's arts based upon the artifacts which he leaves behind him; and (4) anthropogeography, consisting of a general description of the lands of the earth, regarded as distinct geographical units, and a study of their demography with the purpose of understanding the relations of geographical environment to the social practices of distinctive peoples. This last is often placed in a separate and distinct field of geography, but the method and the interest are anthropological, and, for purposes of education, it is the writer's opinion that this field should be closely affiliated with anthropology if not identified with it.

The general importance of the study in formal educational courses of the established facts in these fields and of a systematic attempt to apply knowledge gained from such study to an interpretation of present conditions in human life is, in the opinion of the writer, badly underrated by the scientists in the narrower fields. It is scarcely understood even by those anthropologists who are engaged wholly in research and who do no teaching. The writer has often wondered over this state of things. It is to be attributed, perhaps, to two causes; viz., first the jealousy of the older social sciences, secure and satisfied because of being deeply entrenched in the curriculum, and, secondly, to the unwillingness of the general public to have human origins and early human beliefs and practices



frankly investigated and explained. The latter is probably the main explanation.

Anthropology, in contrast to history, sociology and psychology, grew out of natural science and has, necessarily, the natural science methods and line of approach. As an organized science it was the direct result of the publication of *The Origin of Species* and of *The Descent of Man*, which launched the study of the physical or organic side of man, and of the publications, later, of Tylor's *Primitive Culture*, which started systematic investigation of the social side of his nature. It has been very much influenced by museum development and by museum treatment of the materials and facts that have to do with the past life of man.

Anthropological study drives necessarily towards rational views of life in its influence upon those who pursue it and is apt to seriously modify, if it does not destroy, interests formerly entertained in certain long established "prelogical" or folk-lore ideas and interpretations. All practices and beliefs partaking of the nature of the irrational and arbitrary are apt to lose their hold on the young student of anthropology through comparison with like beliefs and practices found in savage life, which are obviously inept and futile. Since many highly organized views of life, some of which may be found in college curricula, have essentially the bearing and the nature of cults, specialists and theorists, whose subjects and views for one reason or another have a wider acceptance than is their due, are apt to oppose a rationalizing line of study like anthropology and to minimize its influence as far as they can. Religious fundamentalists, ultra patriots, rigorous classicists, and all who hold to a narrow or partial view of life, find it disturbing and are apt to dislike it, even though they may tolerate it.

In stating the reasons why anthropology is so slow in getting the recognition and position which, logically, it should have in the schools, one is giving, it happens, the exact reasons why it should have wide and general acceptance, and why it should become regarded, as soon as possible, as a necessary part of liberal education.

The great problem of those who would have organized society keep pace with the sciences and arts lies in keeping the minds of the masses open to the reception of new ideas.

The best possible way of doing things in law courts, schools and state houses, should come as promptly into operation in those fields, once it has been discovered by the leading lawyer, teacher, or statesman of the time, as is commonly the case at present in medicine and industry. We must not only educate youth, but we must fix the minds of the young, to use a paradox, so that they will always be changeable. The youth who has gone through the schools should generally be, and continue throughout life to be, more teachable than one who has not. He should be ready and able always to change his views and practices to meet the changes in the world about him. It is in this connection that the study of anthropology would have, necessarily, a large value, since in the study of early society one is constantly facing the mischievous effects of the fixation of mental attitudes.

## II

It is obvious that anthropology deals with many important facts that are essential to an understanding of human life and human possibilities, and that many of these facts are not handled in other sciences or studies. For instance, the study of fossil man forces attention to the distinctive human physical qualities, and one must figure out their bionomic meaning while outlining them and tracing their origin. The significance of such traits as the upright attitude and its relation to the free swinging arm, the prehensile sensitive tool-using hand, the balanced head, the extraordinary human cortex with its power to store up impressions and to carry forward experience for comparison are all probably best understood when studied in the genetic sense. In fossil history one gets an accurate sense of the biological significance of the ever increasing brain size, not only in man's evolution but in that of all the higher forms of life. One learns to know, in this line of study, perhaps better than any laboratory experiment could indicate, the nature and even the criteria of intelligence. The fact stands out that it is, in general, the power to make successful adaptations through the utilization of experience.

In this study one must note, furthermore, that after the human line leaves the general anthropoid stem, there is transfer, in essential body functioning, from the usual swinging

and climbing activities of the anthropoids to the characteristic striking and throwing activities of man. One observes and gets the significance of the difference in shoulder form and strength in men and women and so understands, as inevitable, much of the division of labor between the sexes. Familiarity with fundamental facts like these enables one to understand why men's sports involve, so largely, striking and throwing, and why women excel in labors involving pulling, twisting, picking and thrusting; i.e., in work requiring fine and delicate hand movements such as weaving, sewing, pottery making, and basket plaiting. Many like facts can be adduced that are illuminating and a knowledge of which aids materially in arriving at a consistent and intelligent philosophy of life. A knowledge of such facts aids also in solving some of the most troublesome and persistent practical problems, such as are involved in the determination of the best general division of labor between the sexes and in working out the best forms of recreation and sports for city dwellers.

It has been noted already that the social scientists have generally neglected the genetic aspects of their respective subjects. This has been due in part to the impatience of the specialist to get to the present time and to what he deems to be the practical features of his field. He generally believes, very wrongly the writer thinks, that a knowledge of the past is not essential to complete comprehension of the present and that an intensive and more or less protracted study of man's distant past is a waste of time. The taboos and complicated illogical views and ways of savage and barbarous peoples have seemed to those who come casually into contact with them, to be, not only confused and mysterious, but incomprehensible. Their unravelling has seemed both unnecessary and profitless.

To those who have worked in this field, however, and particularly to those who have attempted to relate the early mental and social life of man to the corresponding phases of current life in the great white nations, this view is so short-sighted as to make it explicable only by referring it to a complete ignorance of the primitive field.

To those who are to labor in social fields, whether in research or in efforts at melioration, probably no other concept will be more illuminating than that set forth by Ray Lancaster

when he speaks of man as "an eternal rebel against the despotism of nature," a despotism to which all other living creatures submit with such complaisance and humility, as to establish, through adaptation, a marvelous harmony between them and the despotic world about. Man, and man only, is never contented with either the elemental things that surround him or with his own modifications of such things. When he first began to reshape the rocks and sticks, because, as nature furnished them, they did not quite suit his purposes, he started out on a long and painful career, one in which he undertook to provide himself with a world more to his liking than the one in which he was born. In other words, in these simple acts, he not only was laying the foundation of the machine age but was starting off all human arts and inventions. In effect he saw no reason why if there was a fire in the wood, it should not burn at his bidding and give him warmth when all the world about him was cold, and like reasoning he has applied to a thousand such situations.

Any vision, however, of a world which does not yet exist is dependent upon imagination, the power of abstraction from preceptual memories and of recombinations of the elements of these memories. Imagination is, of course, the basis of constructive or creative intelligence, but the problem of the would-be innovator is to determine whether or not the products of the imagination may be realized or made to conform to the objective world. At the present time, the scientist and the practical inventor constantly refer their imaginings to the objective world about them and, so, do not attempt to realize impossible dreams; the visionary, on the other hand, does not do this and, so, often comes to live in a fantastic world that has no meaning for anyone but himself or those whom he may induce to dream in the same terms. The one becomes the meliorator of hard and unacceptable conditions; the other day-dreams, occupies his mind with such ideas as those of magic, and thus leaves his body to suffer from hunger, cold or disease. The first subjugates the great beasts, harnesses the lightning, stamps out disease, builds marble temples, cuts through and divides the continents, straightens the rivers, weaves silken or downy fabrics for covering and soothing his naked sensitive skin, and gathers from all the ends of the earth the means which may be made to delight his senses and



satisfy his appetites. The other, which includes for ages the whole human race, creates dragons, centaurs and feathered serpents and sets them over man, and supplements the material world with capricious spirit beings which have all the essential powers of the men, beasts and birds from which they are abstracted. These creatures of the unchecked imagination fill the air, and, as personal beings of the invisible world or vague impersonal spirit powers, are held to be responsible for all the important happenings, for good or ill, that come to man. Efforts at controlling these beings and their doings give us the chief products and activities of Levy Bruhl's "prelogical" human mind.

For untold ages the imagination was unchecked and undirected in man's conscious or unconscious efforts at interpreting the world, and the consequent prelogical form of mentality was universal. The scientific control and direction of the imagination is a very recent feature in human mentality. It hardly needs to be stated that it is yet far from being general. To make it so is the one great problem, the solution of which will solve all of the other social problems that are capable of solution. Now an important fact which the anthropologists comes to know, as no one else can know it, is the extent to which the conceptions of this prelogical mind have been handed down and are incorporated in our present Western life, and the extent to which they are still springing up anew even in the midst of the most progressive peoples. Frazer, speaking of them as superstitions, declares they are more prevalent in the Western world at present than ever before, despite all our science, our travel, and our opportunity to see how diverse the organized forms of such conceptions are in different lands and how impossible to hold to, therefore, as anything final. Not only are the doctrines of the Virgin Birth, the Vicarious Atonement and the Resurrection of the Body and other folk interpretations of Christianity still held probably by the great majority of the white race, but there are still no small number who are ready to suffer martyrdom in their defense. Couéism, mental telepathy, spiritualism, and Christian Science illustrate the recrudescence of primitive spiritism and magic.

In fact, to the scientist, the most marvelous thing about the whole life of early man is the intense feeling that accompanies

the entertainment of prelogical conceptions after they have been long held and much repeated. It is this emotion, of course, that accounts for their persistence. It gives the devotee, whether mystical religionist, super-patriot, or worshipper of a specific economic system, great satisfaction to contemplate the goodness of his ideas, particularly if he sees them widely and increasingly accepted, while being sufficiently challenged to provide devils to be overcome and triumph for "the right." This effect is much enhanced if the triumph of his ideas is bringing him also prestige or desired goods.

Only one who has made considerable study of social anthropology can understand how the weird fantastic notions and beliefs of the primitive or prelogical world come into existence; such notions, for instance, as the *couvade*, the taboos about the person of the Maori chief, head-hunting, human sacrifices, monasticism, Mohammedan or Christian bibliolatry, and Puritan Sabbatarianism. It is also true that no one who has not made extensive study of the history of such notions can realize the amount of suffering, confusion and general unhappiness which have been their inevitable accompaniment. Religious wars and persecutions are a large part of it, but are not nearly the whole. The suppression of freedom of thought and speech and the resultant arrest of mental and moral progress are even more serious consequences.

### III

Let us note some of the anomalies and disharmonies of our American national life that would stand out at once, and, so, probably be well on the road to elimination or solution if knowledge of social anthropology should become general.

Possibly the greatest anomaly, considering its practical importance, is to be found in our system of laws, law courts, and law administration. Our system of law administration is so hopelessly inefficient, expensive, and illogical as to be amusing if it were not so painfully serious. We are so much given to lawlessness and violence that the Latin countries to the south of us are much puzzled to understand how we get the assurance to criticise their rather frequent revolutions. The great end of government, in an individualistic society like that of

the white world, cannot be other than to render justice between man and man. Yet we pay vast sums in the form of taxes to get laws enacted and enforced by governmental agencies and then, when our rights are violated, we have to hire champion manipulators of court technicalities, or "pleaders" before illiterate popular juries to get us our dues. It may be that we want something of another man's dues; very able lawyers will be equally at our service for sufficient hire. How do the meaner successful shyster lawyers of our times differ in character from the Greek sycophant parasites of the time of Pericles?

I submit that no scientist would ever have set up, in our heterogeneous American world, either our system of pleading or our jury system as a means of doing justice between man and man. They come not out of comparative study, out of science and invention, but bodily out of the folk-life of another land. They were developed in the late medieval centuries out of the intimate everyday life of a homogeneous people who were living in a fairly compact mass in a small island environment. All of this is in marked contrast with our present American situation with its heterogeneous population, scattered, as it is, over a continent and struggling with the vast problems of the industrial Nineteenth Century. Directly, the teaching of anthropology might have very little bearing on this situation, but, through the knowledge it disseminates of the utter relativity of all institutional practices, it could not fail to exert, indirectly, a wholesome influence.

We have alluded to the primitive religious beliefs and practices which still obtain among us and play a part in the social life of our times. They might have little significance but for the fact that they are championed by fundamentalist organizations which interfere with the teaching of science, with freedom of speech, and with a rational disposition of the time and energies of the individual. All this can be explained only on the basis of a belief that all moral and religious truth came into the world through the revelations of Deity to the leaders of a small Semitic tribe of desert herders from two to four thousand years ago. The common attitude is that there is one true religion, and that all other religions are false. This view, and all of the bigotry incident to it, tend to disappear with

the study of religious origins and with even a small comparative study of religion. One is forced, after such study, to realize that religion is a universal phenomenon in the life of man, and to know that it plays a very real, even necessary rôle by enabling timid early man to feel at home in his world. Possessed as he is of vivid imagination, and surrounded by clashing, grinding forces which he does not at all comprehend, he must some how come to terms with these forces in order to get courage to live and carry on. The student of religious beginnings and of early religious development knows that every form of religion has really functioned and that religions are not true and false but are advanced and backward, just as are arts, languages, literatures and all other human institutions; also that there is beauty and value in even the ugliest and most repulsive of them. He knows that Christianity is not one religion but many; that the higher forms of it represent the world's most advanced religious thought and practice for the same reason that European art and science are in advance of the art and science of other lands; viz., because they are a part of the changing progressive European civilization. He knows, also, that Christianity has undergone numerous adaptations in the past; as, for instance, in its espousal of the cause of human freedom and its adoption of the monogamic family life; also that in the future, it will continue to change, like all living things. That there is contradiction and unreason in all religion, is to one who knows the facts, also obviously true, just as there is in early medicine and law, and in early mental life generally. Even the Christianity of the white world is, therefore, quite as subject to improvement, and needs continual adjustment and renovation quite as much as any other phase of our social life.

Because religion is so largely a matter of the emotions, the clergy necessarily exert a powerful influence over the masses. For this reason it is very important that pulpit teachings should harmonize with the general trend of progress. In this age of science the clergy should supplement the work of teachers and should serve with them as interpreters of scientific specialists and their work to the people at large. Instead of banning the teaching of evolution from the schools and proscribing teachers who know and teach modern science, it would be more reasonable to prescribe a thorough knowledge of



general science, including evolution, before permitting any one to attempt the rôle of leading the multitude, either as preacher or politician. If the practice of prescribing such a knowledge for preaching and public leadership may not be insisted on as a matter of law and the forcing of it is impracticable and undesirable, as the writer believes it to be, there is all the more reason for providing it for prospective leaders of public opinion in voluntary courses in easy reach of all.

In the fields of educational philosophy and the psychology of teaching, anthropology finds, perhaps, its most practical application. Since any scheme of education must necessarily be based on a practical philosophy of life, and, since a knowledge of social origins and of the early history of social life is essential to a proper sense of function and of value in studying civilization, it would seem to be little short of effrontery for one to set up as a teacher without knowing, with accuracy and in considerable detail, the history and meaning of the various elements of that civilization which he is seeking to impart. This is all the more necessary because of the contradictions and confusions so prevalent in current civilization and in the councils of its would-be expositors and directors. Education must necessarily be forward looking; but all foresight must be based upon "hindsight." I find, however, there is no such word as "hindsight" in the dictionaries, which means that men talk much and, perforce, think much about foresight but do not generally realize that its origin lies in that sense of values and perspective connected with the past which might very properly be designated "hindsight." Not only so, but professional teaching ought to be based on a knowledge of the effects that specific ideas, constantly poured through a human mind, finally have upon that mind. In no other field is it possible to learn so much, and so much that is positive and final, as to the fixation of mental attitudes, incident to repetition and to monotonously persistent conditions, as in the fields of primitive mentality and primitive sociology. Every educator ought to know not only that it is possible to destroy a man's power to learn by the crystallization of mental processes and the setting of attitudes but also that irrational ideas, even those that are highly dysgenic and destructive of the peoples who hold them, such as human sacrifices, may possess completely whole peoples who may go to their doom in the clutches

of these ideas. The intellects of vast numbers of mankind have been frozen by a whole-hearted, uncritical acceptance of a set of beliefs and practices that would not bear the most casual analysis. Mohammedanism and its effects upon its followers furnish a good example of arrested mental and social development due to a complete and final acceptance of a particular view of life. This view has wrought its mischievous effects, not merely because it is not scientific, but because, being by nature hostile to all science and to the whole scientific method of reasoning, it precludes development from within and excludes at the same time all ameliorative influence from without.

Specialization in education as practiced among us, and as found in our trades and professions as well, has a pronounced tendency to produce the same effect as the long established prelogical concepts and practices of early man. It often has a cramping and distorting effect upon the mind that not only destroys its sense of values but even destroys the power to learn except in connection with the specialty. Many specialists appear, to those not in their field, to be so queer as to be unbalanced, even insane. The explanation of this effect is obvious to one who has even an elementary knowledge of primitive mentality. It should be one of the chief ends of educators to prevent such distortion and fixation of the mental processes as all intensive specialization tends to produce in human ideas and activities. It is only by vigorously counter-acting this tendency to the crystallization and fixation of mental processes that man's teachability, the greatest single quality which he possesses, can be kept from being destroyed by our high specialization.

Another great, far-reaching principle which is thrust upon the attention of the student of primitive mentality is that man cannot give up or leave off his arts and practices if he would. Once he starts out as a rebel against nature he must continue to be a rebel. He may find that some method or manner of life which has become basic in a civilization in the end works so much harm that he might like to give it up altogether. The effects of luxury on the differential birth rate; of war on the race stock, by its elimination of the strong; of altruism and kindness in providing hospitals and milk dispensaries for the weak and helpless, with consequent preservation of this

element and the resultant multiplication of defectives; the education and enlightenment of backward peoples, who may, as a result, outbreed and displace their educators; the development of machine industry to the extent that individuality is all but lost all may be regrettable, even deplorable, but if these practices have positive value by bringing even temporary power or comfort to those who indulge them, they not only will not, but cannot be abandoned. He who quarrels with machine industry, as such, quarrels with the man who first sharpened a stick or chipped an edge on a flint. The machine is, after all, only a tool, a perfected digging stick or coup-de-poing. The irreversible nature of the fundamental lines of social evolution is just as obvious to the social anthropologist as is that of organic evolution to the palaeontologist.

What we do and must do or perish in the clutches of our own Frankenstein, our social machinery, is to direct, correct, and control our social devices and practices as we go forward so as to minimize the evils. We must learn to be kind without being victimized by our kindness. We may be kind in general, perhaps, and yet exterminate poisonous reptiles, parasites and other noxious forms of life. We may, I believe, be charitable to helpless humanity and relieve all human suffering as far as lies in our power without breeding from imbeciles and morons. We may use machines and profit by the fact that they do arduous and painful forms of work and yet not become, ourselves, mere cogs in machines or the slaves of either the machines or their owners. Anthropology, the writer believes, more than any other line of study provides the knowledge and develops the mental attitudes necessary to such direction and control.

#### IV

How, where, in what form, and to what extent should anthropology be taught? The remainder of this paper will be given to answering these questions, and in the light of what has been said, the answers may be brief.

In the first place, much of it should be taught in the lower schools in connection with geography and history. This is done now, to some extent, in continental Europe. The earlier the child begins to get views of other peoples and other ways

than those around him, the more effective those views will be in preventing that fixation of mental attitudes which destroys teachability.

Furthermore, the fact that anthropology, in its efforts at organizing a science of the natural history of man, handles also many of the generic aspects of the other social sciences, the basic facts that underlie those sciences, forces the conclusion that a first course in this science should precede the serious study of the more specialized social sciences. This would necessitate the placing of a first course in high school, preferably in the senior year, or in the first year of junior college. The elements of this introductory course should be taken largely from anthropogeography. In it, the earth should be studied as the home of man, and man should be studied as the product of complicated earth forces.

The writer would have the beginning student in his first course face and ponder such facts as are involved in the following outline:

1. The elementary course should start out with a brief statement of the general assumptions that underly all scientific reasoning. The young student should be brought to understand the necessity, to any scientific investigation or thinking, of such assumptions as the immutability of natural law, the conservation of matter and energy, and the fact of perpetual change throughout nature. These assumptions once understood, preclude all irrational notions of cosmic processes and open the mind at once to every new conception that may come before it.

2. Next, this course should briefly consider the conditions that make life possible on the earth and which had to be present before there could be a start towards the coming of man. The student should realize that some of these conditions, far from being universal in the cosmos, are, in fact, temporary on the earth; this by way of giving him a glimpse of the utter relativity of man to his background and home, the planet that has given him birth. These would include proper temperature for life, an atmosphere and its necessary character, the presence, and in the necessary form, of the protoplasmic elements and the presence of a universal solvent.

3. Since a preceding course in palaeontology could not be reasonably required, a rapid survey of the history of life on



the earth, should be another feature of this preliminary course. Attention should be called to the fundamental causes of organic change, emphasis given especially to the causes of survival, and an account of the coming of mammals and, finally, of man should be outlined. In tracing the origin of man, attention should be constantly drawn to the causes or forces that pre-determined the essential qualities in man. For example, the relation of gravitation to stature, figure and weight could be made apparent by posing the question of what form man (or the super animal) would have on Mars, with a gravitational force one-third that of the earth, or on Jupiter with a force between three and four times that of the earth.

4. This should be followed by a discussion of the origin and meaning of races and later with an account of distinctive lands with the demography and culture practices pertaining to each. By way of compelling a facing of the great practical problems involved in modern imperial and colonization policies, I should certainly have, even the beginning student, learn some of the facts involved in the effects, good and bad, of present-day contacts between primitive peoples and the whites.

5. Finally, a brief history of the great culture periods with their more important incidents, should be given, if only to be able to put before the student the law of the acceleration of progress. This would be in an effort to get him to see the rapidity of the changes now going on about him, and the consequent necessity of keeping the mind open to new ideas and of being ever on the alert to avoid mental crystallization.

This course the writer would give as early as possible, and as outlined, on the principle that prevention is more effective than cure, that it is easier to avoid getting the mind tied into knots and kinks than to unravel them after they have appeared and have become set by long continued pulling and jerking of all sorts of political, economic, social, and religious salvationists.

It is obvious, also, that such a course would meet many if not most of the needs supposed to be served by the "orientation" and "exploratory" courses now being tried out in the freshman year in several colleges and universities, and it would be much more consistent and better integrated than such courses have hitherto been.

In the junior college, courses should be given on primitive mentality and primitive philosophy and on the early forms of subordination of man to man. Such facts should be studied and explained as those involved in the early subjugation of women, in primitive wars and conquests, in the setting up of slavery and caste, and, later, in the private appropriation of land; explanations should include the consequences, good and bad. A detailed course should also be given in general or world-wide ethnology.

In the senior college and graduate school, courses should be given in the narrower and more special aspects of anthropology looking to research. These courses should consist of the archaeology of the more interesting and important fields or of special fields; the physiology and anatomy of races, involving, or preceded by, anthropometry and comparative anatomy; and the ethnology of distinctive peoples and areas, including linguistics and folk-lore.

Above all things, in organizing and teaching courses in anthropology, for purposes of liberal education, or as preliminary to the pursuit of other social science study, I think it is important to avoid the mistake so frequently made, not only in the teaching of anthropology but in many other sciences as well, of assuming that all of the students are to be research workers in this field and that the teacher should make even the young student, who may have no intention of becoming an anthropologist, a skillful manipulator of laboratory apparatus or of source materials. This practice is apt to do more to hold back the widespread teaching of anthropology and the recognition of its proper place and importance in general education than all other causes combined.

Again, many teachers of anthropology are afraid to be interesting, or to draw even tentative conclusions from the facts which they set forth. The result is that their handling of the subject is as dry as dust, and the facts which they require their students to learn often seem to many of them to be entirely without meaning.

Caution in drawing conclusions is well enough, and tentative conclusions and explanations should not be put before the young student in any but a tentative way; nevertheless, to refuse to give any implication to the facts of primitive life while setting them before the young mind, is to leave the

whole business of teaching such facts largely futile and meaningless. Such extreme unwillingness to draw conclusions as I have seen, exhibits the instructor himself as being in the paralyzing clutch of a scientific method, a situation quite comparable to what we find so commonly in the primitive world. It amounts virtually to a refusal to think. We must draw some conclusions, if we are to have any definite mental life at all, just as we must have some social conventions in order to have society. The problem is how to think both practically and scientifically; how to organize men into nationalities, industries, colleges or what not, so as to form a functioning society, without at the same time fixing their reactions to such effect that they behave ever after like ants and bees.

The handling of anthropology, as a line of liberal education, should constantly involve the tracing of the earlier developments into the present life about us. This is essential to giving them their proper and necessary implications. So handled it is, to normal youth, probably the most fascinating subject in the curriculum, and the student who possesses a proper curiosity about himself and the world he must live in, material and social, cannot fail to like it and to profit by the study of it, whether he pursues it in one course only or makes it a life-long study.

## THE CONFERENCE IN INTERNATIONAL RELATIONS

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The international conference does not belong exclusively to the modern era. Like most practices in the field of government it is of ancient origin with a long history of expansion and adaptation. In its most elemental form it is ordinary diplomacy with the representatives of two independent states meeting together to deal with an affair of common concern. As such the conference is as old as diplomacy and existed in the period of the Greek city-states.

A more advanced concept of the international conference pictures the delegates of a considerable number of states convened together to act in an organized manner for the solution of their problems. Even in this form it is an ancient institution. The city-states of Greece developed in their leagues and confederacies a large number of conferences. One of the better known was the Amphictyonic Council of twelve tribes with its semi-annual meetings, extending back in history past the possibility of any certain fixed date.<sup>1</sup> The Confederacy of Delos of the period of Pericles and the Achaean League also afford instances of interstate coöperation through the instrumentality of an assembly of representatives. The pre-Trecentine oecumenical councils of the Roman Catholic Church were international congresses of a later date, as Dr. Francis Wharton has aptly noted.<sup>2</sup> Each state of Christendom was represented by political delegates as well as by the clergy, and each state through its political departments rejected or ratified such laws as the council might propose. As time passed these councils took on a more distinctly religious flavor and ceased to have the status of a diplomatic assembly.

The modern period of internationalism is generally considered to have had its beginning in the middle of the seventeenth century with the Peace of Westphalia which signalized the termination of the Thirty Years' War. By that time

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<sup>1</sup>Curtius, *History of Greece*, Vol. I, p. 111.

<sup>2</sup>Wharton, Francis, *Conflict of Laws*, I, paragraph 171.



there were enough independent states in Europe to make concerted action through the medium of a general gathering of diplomatic envoys a practical, if not a necessary, form of procedure. The Congress of Westphalia in 1648, may, in truth, be regarded as the first conference to serve as an instrument of modern internationalism. Since that date there have been hundreds of gatherings of representatives of sovereign states. Some have been known as "Congresses," while others have been designated "Conferences." The distinction between the two terms has ceased to have any significance, though in the early days of diplomacy it was understood that the former was a more formal and august body than the latter.<sup>3</sup>

During the nineteenth and early twentieth centuries the nations of the world displayed a rapidly increasing tendency to go into council on matters of common interest. Professor S. E. Baldwin has compiled a list of 313 conferences that occurred between 1826 and 1907.<sup>4</sup> From 1850 to 1860 a total of six conferences are recorded; between 1860 and 1870 there are nineteen; and from 1900 to 1907, twenty-six are listed. A more limited group of conferences of unusual importance arranged by Sir E. Satow to cover the century preceding the outbreak of the World War indicates the same steady numerical increase.<sup>5</sup> Evidently the world had been habituating itself more and more to the practice of concerted deliberation when the cataclysm of 1914 occurred.

There are several explanations for the growing popularity of the conference idea during the century that preceded the World War. In the first place, the interests which the states of the world had in common had been multiplying and reaching out into new fields. Social and economic matters had been receiving a greater amount of attention and the control of

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<sup>3</sup>Certainly the practice is now to use the two words interchangeably. There could be no logic in applying "Congress" to the Vienna meeting of 1815 and "Conference" to the Paris conclave of 1919. It is significant that the body of delegates sent to Paris in 1856 to form a treaty of peace after the Crimean War was first called a "Conference" but came later to be known as the "Congress of Paris." See Satow, Sir E., *Congresses and Conferences*. British Peace Handbook, No. 151, 1920, p. 1.

<sup>4</sup>*American Journal of International Law*, Vol. I, Appendix, pp. 808-829.

<sup>5</sup>Satow, Sir E., *op. cit.*, pp. 6, 7.

international relations through law had been more generally accepted as a sound course of procedure. As a result, there were a larger number of mutual deliberations. Furthermore, the state-system of the world had been taking on a growing complexity. At the time of the Treaty of Westphalia in 1648 there were only eleven well-defined sovereign powers in Europe and international politics outside of Europe was not significant. During the nineteenth century many new states gained entrance into the Family of Nations. By 1914 there were some sixty nations capable of maintaining relations with each other. This combination of a large number of independent nations with an expanding area of international jurisdiction gave use to numerous situations pregnant with potentialities for coöperation or friction which consequently adopted the conference method.

The host of conferences that accompanied the development of internationalism before the World War were not identical in their various aims and aspirations. Together they bespeak the ramifying turn that the relations of states were taking. It will be advisable to treat them on the basis of some fundamental lines of distinction.

In the first place a considerable number of gatherings had been peace conferences held at the end of wars.<sup>6</sup> Usually they confined themselves to the settlement of the definite issues that the war had brought to the forefront, but some of the more aggressive among them branched out beyond what would seem to be the logical limits of their jurisdiction. The Congress of Vienna interested itself in the slave trade and in the internationalization of rivers. The Paris Congress of 1856

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<sup>6</sup>The most important among peace conferences of the modern era are the following:

1648—Westphalia	1772—Fokchany; Bukarest
1659—Pyrenees	1779—Teschén
1668—Aix-la-Chapelle	1797—Rastadt
1679—Nijmegen	1802—Amiens
1697—Ryswick	1815—Vienna
1699—Carlowitz	1856—Paris
1713—Utrecht	1878—Berlin
1721—Cambray	1905—Portsmouth
1728—Soissons	1912-13—London
1748—Breda; Aix-la-Chapelle	1919—Paris.

invaded the field of international law by providing rules relative to blockades, privateering, and the capturability of goods on the high seas in time of war. In no form has the peace conference represented an advanced conception of internationalism. Whether attended by two states or forty, whether involving itself in peace-time problems or confining itself to a limited program, it has been dominated too much by the will of the victor and has been too lacking in essential justice to qualify as a satisfactory organization for the general conduct of international affairs.

Most of the conferences of the nineteenth and early twentieth centuries, however, were held in time of peace and had little or no relation to any particular war. They were evidences of a developing spirit of coöperation in many fields of human endeavor. Some of them were private conferences attended only by the representatives of societies and organizations taken from national units.<sup>7</sup> Such gatherings belong properly to the field of cosmopolitanism rather than that of internationalism. They undertook to achieve an exchange of ideas or a concerted action on the part of diverse peoples without the use of the existing state-system. Within the long list

<sup>7</sup>*American Journal of International Law*, Vol. I, Appendix, pp. 808-829, S. E. Baldwin.

A list of 184 international conferences of a private nature between 1826 and 1907 is given. They represent the following fields of interest:

	Confer- ences		Confer- ences
Agriculture and Botany.....	2	Medical Surgery.....	14
The Use of the Air.....	2	Money.....	2
Americanism.....	3	Navigation.....	3
Commerce.....	6	Peace and Arbitration.....	7
Corporations.....	1	Philanthropy.....	13
Crime and Prisons.....	4	Police.....	2
Education.....	6	Racial.....	6
Electricity.....	1	Press.....	2
Fisheries.....	1	Religion.....	12
Geography.....	5	Science.....	24
Industrial Arts.....	5	Socialism.....	3
Intoxicating Liquors.....	4	Social Service.....	4
Labor.....	10	Women.....	4
Languages.....	3	World Politics and Econ.....	4
Law.....	14	Zoology.....	2
Literature and Fine Arts.....	9		

of those held between 1826 and 1907 are found conferences dealing with science, religion, crime, languages, peace, and a multitude of other subjects. More recently meetings have been held of the representatives of new organizations of private interests. For instance, a Pan-American students' conference convened in Mexico City in 1921 and 1924.

Of paramount importance for our purposes are public international conferences in times of peace, where nations through their delegates assemble together. Idealists have advocated the scheme of putting such meetings upon a permanent basis with a provision for periodic sessions throughout the modern era of internationalism.<sup>8</sup> The "Grand Design" of Henry IV would have furnished Europe with a General Council, patterned after the Amphictyonic Council of Greece, and a group of Minor Councils, to deal with questions of trade, politics, and religion. Grotius wrote in 1625, "It would be useful, and indeed it is necessary, that congresses of Christian states should be held in which controversies which arise among some of them may be decided by others who are not interested, and in which measures may be taken to compel the parties to accept peace upon fair and reasonable terms." William Penn in 1693 modestly suggested a "European Parliament" that would "beget and increase personal friendship between princes and states." Well-known plans for universal peace that have provoked both admiration and cynicism were propounded by Jean Jacques Rousseau, Immanuel Kant, Jeremy Bentham and other writers in which references to world "diets," "congresses," or "tribunals" were common. In most instances the precise powers of the organization proposed were not defined but frequently they were to extend to both legislation and adjudication of disputes. A more carefully devised project was published in 1840 under the authorship of Mr. Wm. Ladd, an American, which was entitled *A Congress of Nations*.<sup>9</sup> It would have established by a treaty agreement a permanent congress with periodic sessions authorized, on the basis of unanimous consent, to recommend to member states alterations or additions to the existing body of international law.

<sup>8</sup>York, E., *League of Nations*, 1919, pp. 101-103, 112, 147, 155, 268, 281.

<sup>9</sup>Ladd, William, *A Congress of Nations*, pp. 8-10. Published by the Carnegie Endowment for International Peace in 1916.



The notion of periodic conferences had gained a degree of recognition in the actual practice of diplomacy before 1914. Between 1815 and 1822 the Quadruple Alliance which had developed out of the Vienna Congress held four meetings at convenient European cities for the purpose of developing common policies. Controlled by Metternich, as they were, it would be a mistake to regard them as the outgrowth of an enlightened internationalism. They were the mechanism of a very limited group of states who cherished the ideal of peace, but only if it were founded upon their own reactionary notions of the way in which the nations of the world should live. The meetings of the representatives of the alliance were not expected to be held at stated intervals but there was developed some sense of recurring gatherings on such occasions as the conditions of Europe might demand.

Pan-Americanism, since the time of Bolivar, has carried with it the idea of regular conferences. On September 6, 1815, Bolivar wrote what has become a well-known letter from Jamaica, where he was in exile, in which he stated, "How beautiful it would be if the Isthmus of Panama should become for us what the Isthmus of Corinth was for the Greeks! Would to God that we may have the fortune some day of holding there some august congress of the representatives of the republics, kingdoms, and empires of America, to deliberate upon the high interests of peace and of war not only between the Americans, but between them and the rest of the globe."<sup>10</sup> The first congress of American powers, convoked on his initiative, in 1826, adopted in principle a scheme for an assembly meeting every two years, but it was not until 1890 that a permanent organization looking toward a series of conferences was actually effected. There have since been four other meetings, the last one in 1923. Pan-Americanism appears to be well founded on the basis of occasional conferences.

The larger number of public international unions that have been organized since 1864 have involved periodic meetings to revise the constitution and "regulations" or to select a body

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<sup>10</sup>Inman, S. G., *Problems in Pan-Americanism*, 1915, p. 103.

of delegates to supervise the work of the bureaus.<sup>11</sup> The conferences of these administrative organizations have a very limited area of jurisdiction. They do not represent a world parliament in any broad sense. The Congress of the Universal Postal Union, for instance, is limited by its nature to a very small arena of activities. But, it is a matter of some significance that the idea of regular conferences has been used so long, even on so small a scale.

The two Hague Conferences of 1899 and 1907 were expected by many to be the beginning of an indefinite number of similar gatherings. They were the fruit of a matured idealism which, it was assumed, had become strong enough to sustain an immediate period of future expansion in the world's organization. They were called peace conferences, not because they terminated wars but on account of their ultimate aim of replacing international friction by an element of coöperation. While the first of the two meetings did not specifically provide for a later convocation, the contents of its *voeux* made it obvious that one was expected.<sup>12</sup> The South African War and the Russo-Japanese conflict delayed the second gathering until 1907. One of the *voeux* of the second conference was a specific recommendation of a "Third Peace Conference, which might be held within a period corresponding to that which has elapsed since the preceding."<sup>13</sup> It was the World War that prevented the fulfillment of this wish.

Although the society of nations had failed in 1914 to construct a world parliament of a permanent type its members had gone into common council frequently in regard to diverse matters. Purposes as broad as the whole field of internationalism received treatment. Evidently states were willing to indulge to a limited degree in coöperative enterprises but only through the medium of a loosely-knit organization.

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<sup>11</sup>For a list of forty-five International Administrative Bodies in operation in 1905, see Potter, P. B., *Introduction to the Study of International Organization*, pp. 270-271.

<sup>12</sup>*The Hague Conventions and Declarations of 1899 and 1907*. Edited by James Brown Scott, p. 28, *voeu* 5, expresses the wish that the subject of private property in naval warfare be "refererd to a subsequent conference."

<sup>13</sup>*Ibid.*, *voeu* 5.

There were several conferences before the World War that dealt with public international law. The Peace Congress at Paris in 1856 supplied rules regarding the blockade, privateering, and private property at sea during war. Eight years later a group of powers met at Geneva for the purpose of ameliorating the condition of wounded soldiers in the conduct of war.<sup>14</sup> The use of explosive bullets in war was the substance of the agenda of the St. Petersburg Conference in 1868. An international gathering at Brussels in 1874 aspired vainly to codify the law in regard to land warfare. Most significant of all were the two Hague Conferences of 1899 and 1907 that resulted in the promulgation of a considerable body of rules dealing with war and its conduct. The last diplomatic assemblage to labor in the field of international law before the outbreak of the World War was that at London in 1908-9 to establish a code of naval warfare, a gigantic effort which ended unsuccessfully.

Private international law had also been brought under the jurisdiction of the conference method. A group of nine Latin-American states met at Lima in 1877 with the aim of developing this branch of law. The Pan-American conferences have brought both public and private international law under the scope of their attention. Europe's interest in the subject has been exhibited in a series of conferences at the Hague beginning in 1893 in which from thirteen to fifteen states participated. Conventions were drafted at those meetings with the object of codifying the law.

Social questions found their way into international conferences at an early date. The slave trade received the condemnation of Europe at the famous Vienna Congress of 1815. After this early interest had spent itself international humanitarianism lapsed for several decades. Since the middle of the nineteenth century it has been revived in new forms with a strong emphasis upon sanitation, health, and morals, recognizing as it were a police power of the world. Beginning in 1851 there were a total of nine sanitary conferences in Europe before the opening of the twentieth century which has

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<sup>14</sup>A second Geneva Conference met in 1868 for the purpose of extending the rules formerly agreed upon to warfare at sea, and a third conference convened at the same city in 1906 to revise the code of 1864.

ushered in an era of even greater interest and more frequent deliberations. The white slave traffic became the subject of international attention in 1902 at a conference in Paris and at other meetings that convened before 1914. The protection of labor, the regulation of the production and use of opium, and the liquor traffic in Africa were also among the subjects dealt with by occasional gatherings of interested states.

Economic questions could not escape the attention of a world so widely affected by the new methods of industry and commerce to which the nineteenth century gave life. There were conferences dealing with navigation, communication, transportation, systems of weights and measurements, agriculture, and a long list of other subjects belonging to the field of economic internationalism. Many of them were related to official unions, commissions, and bureaus that have developed so rapidly during the past six or seven decades, while others had an independent status.

The century preceding the war of 1914 witnessed a considerable number of conferences that were devoted to problems of international politics. Diplomatic tangles are always existent or in the process of making somewhere, and their presence is a challenge to the methods of a deliberative assembly. Five European powers met at London in 1830-31 to provide for Belgium's neutrality. Probably the Algeciras Conference of 1906 is as well known as any of this type. France and Germany were involved in one of their arguments over Morocco and it seemed possible that a European war might be provoked. At the suggestion of President Roosevelt the states which were represented at the Madrid Conference of 1880 convened once again in Spain and the affair was temporarily controlled. An earlier instance of this type of meeting was the Berlin Congress of 1878 that devoted itself primarily to the settlement of eastern European problems. It was convoked under the authorization of the Concert of Europe.<sup>15</sup>

There were many conferences before the World War that interested themselves at once in several of the above types of

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<sup>15</sup>The Concert of Europe was responsible for other political conferences such as: Conference on Cretan Affairs at Paris in 1869, Conference on Turkish Affairs at Constantinople in 1876-1877, and the Conference on African Affairs at Berlin in 1884-1885.



activities and consequently cannot be grouped logically in any particular category. The Hague Conferences dealt not only with questions of international law but also with such political issues as arbitration and disarmament. Pan-American conferences have had economic, social, legal, and political questions on their agenda. While a breadth of subject matter for a peace conference usually indicates only a thirst for power on the part of the victor, at a gathering in time of peace it represents a recognition of the interrelation of affairs that appear to be essentially distinct.

The number of states represented at international conferences that met before 1914 varied within wide limits.<sup>16</sup> Conferences of from twenty to thirty-five states were not at all uncommon. Twenty-six nations participated in the first Hague gathering and forty-five in the second meeting. There were dozens of diplomatic assemblies with as many as ten members. The development was in the direction of more frequent conferences participated in by a greater number of states.

The period of the World War was a significant one in the history of international conferences. The unusually close relations between the allied powers put an unbearable strain upon the ordinary methods of diplomacy. Messages from one head of state to another that went through the regular diplomatic channels could not procure that punctuality of cooperation which an emergency condition demands. Problems were too numerous and too urgent to permit delay. Consequently it was found necessary early in the war to arrange personal meetings of representatives of the allies to deal with pressing issues. Meetings of technical representatives were the first

<sup>16</sup>The following figures indicate the varying membership of international conferences before 1914. They represent the most important conferences as compiled by Professor S. E. Baldwin in *American Journal of International Law*, Vol. I, Appendix, pp. 808-829.

Number of conferences with 3 to 5 states participating.....	8
Number of conferences with 6 to 10 states participating.....	15
Number of conferences with 11 to 15 states participating.....	16
Number of conferences with 16 to 20 states participating.....	14
Number of conferences with 21 to 25 states participating.....	4
Number of conferences with 26 to 30 states participating.....	5
Number of conferences with 31 or more states participating.....	2

to develop.<sup>17</sup> For instance, Mr. Lloyd George called the finance ministers of the chief allied powers together in February, 1915, to deliberate on their common financial problems. During the spring of the same year the practice came into vogue of personal consultations between such leaders as M. Millerand, Mr. Asquith, M. Viviani, and Mr. Balfour.

The first definite organization for frequent allied conferences was achieved in November, 1915.<sup>18</sup> Lord Kitchener was one of the most enthusiastic supporters of the scheme. The Prime Ministers of the states at war against Germany were to constitute a committee to formulate policies which should be presented as advice to the respective Governments. On March 26, 1916, the first meeting of this body took place and was attended by the representatives of seven states. That the organization was an active one may be seen from the fact that during the first ten months of 1917 there were eleven conferences at convenient cities.

In November, 1917, allied diplomacy underwent another important alteration that involved a continued application of the conference style of diplomacy, but under arrangements that were designed to be more efficient. By an agreement made at Rapallo by England, France, and Italy the Supreme War Council came into being.<sup>19</sup> Each state was to be represented in the council by its Prime Minister and by such military or naval experts as might be necessary. The United States had a delegate present who could report what had been done but could not discuss, possessing an "ear but not a mouth," as M. Clemenceau remarked.

On the advice of the Supreme Council there were also developed a large number of subsidiary councilar bodies. There were some twenty of them altogether designated variously as "committees" and "councils," dealing with transportation, food, nitrates, aircraft, the blockade, and many other matters.<sup>20</sup>

<sup>17</sup>Hankey, Sir M., "Diplomacy by Conference," *The Round Table*, Vol. XI, pp. 286-311.

<sup>18</sup>*Idem.*

<sup>19</sup>*The Supreme War Council*, World Peace Foundation Pamphlets, Vol. I, no. 7, pp. 346-347.

<sup>20</sup>*Idem.*

This war-time machinery of diplomacy may prove itself to be of enduring importance. At least it placed an emphasis upon the conference idea which had not been equalled before. Problems of many sorts, social, economic, and political, were handled with comparative facility by the councilar process. Consequently the victorious allies emerged from the war with an unusually high estimate of the value of international deliberative assemblies. The conference method had contributed to their success. What was to hinder it from effectively coping with the complexities of peace? Sir Maurice Hankey, secretary to the British Cabinet during the war, after being in attendance at 488 international meetings between 1914 and 1921, gave it as his opinion that "diplomacy by conference has come to stay."<sup>21</sup>

During the post-war period the conference has been of superlative importance in the conduct of international relations. The daily press has brought only a smattering of their activities to the attention of its readers. Between March 1, 1920, and September 1, 1925, there were ninety-two gatherings recorded in the chronological list of events of international significance compiled in the regular issues of the *American Journal of International Law*. In addition there have been a considerable number of two-power conferences, a host of private international gatherings, and the regular meetings of the Council and Assembly of the League of Nations. Evidently the world has developed a great deal of faith in deliberative assemblies as preventive and remedial processes for the ills that are incident to the relations of states.

The idea of periodicity in conferences has been realized in the machinery of the League of Nations and the International Labor Organization. The Council of the League is directed by Article IV of the Covenant to meet "From time to time as occasion may require, and at least once a year." The forty-fifth session of the organ convened on June 13, 1927. Each year since the establishment of the League there have been from five to seven meetings of the group of states that compose this important body. Article III of the Covenant provides that "The Assembly shall meet at stated intervals and from

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<sup>21</sup>Hankey, Sir M., "Diplomacy by Conference," *The Round Table*, Vol. XI, pp. 286-311.

time to time as occasion may require," while as a matter of practice it has convened annually. The conferences of the International Labor Organization, whose jurisdiction is more narrowly limited, like that of public international unions, are put upon a periodic basis by the Treaty of Peace.<sup>22</sup> They have been meeting either once or twice every year. These regular gatherings of diplomats that are related to post-war organizations represent the highest degree of success that the periodic conference idea had achieved since the opening of the modern era of internationalism.

The League of Nations has also been responsible for the convocation of a group of conferences to deal with specific matters of interest that are located within its jurisdiction. For instance, under its auspices a European Health Conference met at Warsaw in March, 1922.<sup>23</sup> The Opium Conferences of 1924 are probably as widely known as any that the League of Nations has sponsored.<sup>24</sup> While these meetings are not of a periodic sort, and probably should not be on account of the temporary nature of the functions which are usually involved, they do indicate the increasing reliance of internationalism upon the conference method.

Most of the post-war gatherings of diplomats have been unrelated either to the League of Nations or to any other permanent society of states. They have been called by individual states which have been interested in the solution of a puzzling situation and they have provided their own organization and established their own procedure irrespective of outside influence. They have been attended by as many states as were interested provided their presence was agreeable both to the other parties and to themselves. Some of them have contained representatives of a comparatively limited number of states, restricted either geographically or by interests. There have been several meetings of the Baltic Powers, of the succession states to Austria-Hungary, of the Central American group, of the members of the Little Entente, and of the nations

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<sup>22</sup>*Treaty of Peace*, sec. XII.

<sup>23</sup>*Temps*, March 22-23, 1922.

<sup>24</sup>Buell, R. L., *The International Opium Conference*, 1925, World Peace Foundation.



formerly allied against Central Europe.<sup>25</sup> The importance of recent conferences has not been dependent upon the number of states which have been present. The Washington Conference on the Limitation of Armament, in 1921-22, with five states represented on armament questions and nine on Far Eastern affairs, was much more far-reaching in consequences than the International Conference on Maritime Law at Brussels in 1922, attended by twenty-two powers. The importance of a given conference has been determined more by the international influence of the states participating than by their number.

The most astounding fact in regard to post-war meetings has been their frequency. Never before in the history of internationalism have so many been held over so short a period of time. It is not to be wondered at that an editorial appeared some time ago in one of our periodicals entitled, "Conferences and Conferences."<sup>26</sup> The inquiry naturally suggests itself as to why this development has been possible.

The peace settlement appears responsible for a considerable number of the conferences of the past few years. Some questions were left open by the conference at Paris, others needed revision, while a third group presented problems of enforcement. Consequently the Allied Supreme Council met as occasion demanded in the capacity of an instrument of peace until the occupation of the Ruhr by France in December, 1923.<sup>27</sup> Some of its tasks, particularly that of defining new boundary lines, were delegated to the Conference of Ambassadors, composed of the diplomatic representatives of the principal allied powers at Paris. The reparations issue brought the

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<sup>25</sup>The following list illustrates conferences of each of the groups of states mentioned:

Conference at Riga, 1922, of Baltic States regarding political and economic coöperation; Portorose Conference, 1921, of Succession States to Austria-Hungary to develop methods of coöperation; Conference on Central American Affairs at Washington, D.C., 1923, to deal with both political and economic matters; Conference of the Little Entente at Prague, 1922; Meeting of the Allied Powers at Spa, 1920, regarding reparations.

<sup>26</sup>*The Outlook*, Vol. 138, pp. 533-534, 1924.

<sup>27</sup>Buell, *op. cit.*, p. 636.

Allied Supreme Council together for a large number of meetings, both formal and informal.<sup>28</sup> They dealt with the size of the indemnity, its allocation, and the most engaging problem of enforcing payment from a poverty-stricken and ill-humored vanquished state. The execution of the terms of the treaty received especial attention at the San Remo Conference early in 1920, although other subjects were also on the agenda, such as Russian and Turkish affairs.<sup>29</sup> In some instances the Supreme Council came together to deal with turbulent ruptures in the relations of mutually suspicious European powers. The Polish occupation of Eastern Galicia, the trouble between Hungary and Roumania in Transylvania, and the seizure of Fiume by D'Annunzio precipitated issues that served as occasions for meetings. The Conference of Ambassadors has been called into session for the solution of equally knotty situations, such as the Vilna affair between Poland and Lithuania and the Jaworzina boundary dispute which involved Czechoslovakia and Poland. Many of these continuation conferences of the powers formerly allied against Germany would not have occurred had the League of Nations been able to evoke a greater confidence among states that were from the beginning adamant to it. In any case, such gatherings were too closely related to the World War and its immediate aftermath to suggest any reformed internationalism or any likelihood of their indefinite recurrence.

Another cause of the large number of post-war conferences has been the unusual need for coöperation and the persistent demand for it among states in several lines of activity, particularly in economic and social matters. The world's machinery of finance was not meeting the heavy strains placed upon it and therefore the Brussels Financial Conference was called in 1920.<sup>30</sup> Problems such as the renewal of trade relations with Russia, the utilization of railway facilities with a maximum of efficiency, emigration and immigration, and the regulation of electrical and wireless communications have been

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<sup>28</sup>The best known conferences that have had to do with reparations were: Sythe, 1920; Boulogne, 1920; Brussels, 1920; Spa, 1920; Paris, 1921; London, 1921; Paris, 1923; London, 1924.

<sup>29</sup>Gibbons, H. A., *Europe Since 1918*, pp. 520-541.

<sup>30</sup>*Current History*, Vol. 13, p. 470.

placed upon the agenda of international diplomatic gatherings, entirely unrelated to the machinery of the League of Nations.<sup>31</sup> Among social problems that have been brought before conferences are health, police, the protection of disabled soldiers, and liquor smuggling.<sup>32</sup> Independent meetings to provide coöperation in such matters are apt to continue with little or no abatement unless the League of Nations gains control over the interest which they represent. International action on social and economic issues is more apt to increase in volume than to decrease, and the conference will be an available vehicle for it.

Another factor that has contributed to the growing use of the international conference has been the world's interest in an assurance of peace. Disarmament, arbitration, and guarantees of mutual assistance are also subjects that have been treated both by the League of Nations and by conferences independent of it. The Washington Conference of 1921-22, the Moscow Conference of 1922-23, the Central American Conference of 1922-23, and the Geneva three-power conference of 1927 were all devoted to the limitation of armament.<sup>33</sup> These matters come within the jurisdiction of the League of Nations, but until the authority of that organization becomes

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<sup>31</sup>Among the conferences dealing with economic matters, apart from the League of Nations, have been the following: International Free Trade Congress, London, 1920; International Passport Conference, Paris, 1920; International Conference on Communication and Transit, Barcelona, 1920; International Wireless Conference, Paris, 1921; European Railway Conference, Paris, 1922; Wireless Conference, London, 1923; Genoa Conference, 1922; Emigration Conference, Rome, 1924.

<sup>32</sup>Among the conferences dealing with social matters, apart from the League of Nations, have been the following: Sanitary Congress, Paris, 1921; International Health Conference, Copenhagen, 1921; International Police Congress, Vienna, 1923; International Anti-Liquor Smuggling Conference, Helsingfors, 1924. In addition there have been conferences on social matters under the League and the International Labor Organization.

<sup>33</sup>See regarding these conferences:

*Conference on Limitation of Armament*, United States Government Printing Office, 1923.

*Conference on Central American Affairs*, United States Government Printing Office, 1923.

*Conference de Moscou pour La Limitation des Armements*, Moscow, 1923.

at once effective and exclusive there is no reason to expect that separate international gatherings to deal with them will cease to occur.

In all probability there would have been fewer post-war gatherings of diplomats if it had not been for efforts of Mr. Lloyd George. It is quite clear that he was the inspiring genius of the Genoa Conference of 1922 and that he was active in the meetings of the Allied Supreme Council. His confidence in the utility of the conference idea was well stated in his speech before the National Liberal Council in London early in 1923 when he said: "The gibbers are going to say: Ah! Another conference! Forty-five nations! A thousand experts! What folly! What extravagance! Yes, what extravagance—a thousand experts, financial, diplomatic, economic. They are cheaper than military experts. Their retinue is a smaller one."<sup>34</sup> Mr. Lloyd George was able to influence the conduct of internationalism by this conviction until 1922 when the overthrow of the coalition government occurred.

The conference has gained for itself a permanent place in the machinery of internationalism. The period of 1919 to 1925 represents the acme of its usefulness. If there has been a slight reaction during the past two years it has been due primarily to the gradual disappearance of several issues of the peace settlement. There still remain a large number of matters that will continue to be the subject of international deliberation for an indefinite length of time.

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<sup>34</sup>Mills, J. Saxon, *The Genoa Conference*, 1923, p. 18.



## BOOKS REVIEWS

EDITED BY O. DOUGLAS WEEKS

*University of Texas*

Mohr, Anton. *The Oil War*. (New York: Harcourt, Brace & Co., 1926, pp. vii, 267.)

Fischer, Louis. *Oil Imperialism*. (New York: International Publishers, 1926, pp. 255.)

"Since the war more of governmental and industrial effort has been devoted to seeking out the world's resources of petroleum than to any other field of industrial enterprise." Thus spoke the president of the American Petroleum Institute before a recent meeting of that organization. And it may be observed in this regard that while oil has manifested effective lubricating qualities when applied to the wheels of industry, it seems to have functioned in recent years as a persistent irritant in the machinery of international diplomacy and world politics. Even prior to the Great War the automobile and a rapidly expanding industrial system had given to petroleum a new economic and commercial importance. The war gave to it a military significance of equal import. The result has been a merging of the interests of the captains of industry and the masters of politics and government. This harmony of purpose has, of course, been confined to the limits of a particular national entity. In the broader field of commercial and political activity there has been naught but conflict and confusion. Oil has become a clog in the machinery of diplomacy, albeit a prize in the conflict for world trade. It is of these things that Messrs. Mohr and Fischer write.

Professor Mohr, lecturer in political geography at the University of Oslo, begins his discussion with a consideration of Admiral Fisher's now famous prophecy, made in 1882, regarding the eventual use of oil as a fuel for fighting ships. After a brief résumé of the historical development of the oil industry, Professor Mohr discusses in some detail the pre-war oil alignment. The Standard Oil Company's monopolistic position in the United States, the rapid rise of Royal Dutch Shell and the Standard-Shell competition for control of the international markets, the Russian oil industry, the German attempts to form a state monopoly in oil, the pre-war French oil policy all come in for appropriate consideration. Then came the war and the fulfillment of Admiral Fisher's prophecy. The pre-war conflict for commercial and political jurisdiction over oil was accentuated a thousand fold. This struggle has been carried on in two remote geographic areas—in the Near East and in Mexico and South America. Into the forefront of the conflict have emerged the two great rival groups—on the one hand, the Standard Oil interest backed by the influence of the American Government, and

on the other, the Royal Dutch Shell and Anglo-Persian enjoying the support of British influence. What of the outcome? "Not long ago, in 1912, Britain commanded no more than 2 per cent of the world's production of oil; today she controls either directly or through foreign companies controlled by British capital . . . the major part of the world's supply of that commodity. There are many signs that the seven tenths lead in oil production held by the United States will pass, before many years have elapsed, into the hands of the British." Although Professor Mohr points out that the "oil war" with America and England as the chief combatants has been and is still being waged with ruthless fervor, he closes his book with a note of optimism. Whatever may be the truth about the approaching exhaustion of American fields, the world supply is so bountiful and so accessible that users of oil need be little disturbed by the bogey of scarcity.

While Professor Mohr's story is vividly and interestingly told, the account manifests such frequent inaccuracies of detail as to prejudice the whole discussion. Moreover, he fails to take any account of the increasingly strategic position which the Russian oil industry is coming to occupy in both the realm of commerce and of politics. The book on the whole is an inadequate account of oil in international affairs.

Of a somewhat different tenor is the book by Mr. Fischer. Russian oil forms the core of Mr. Fischer's discussion, and he is far less optimistic in his conclusions than is Professor Mohr. The prelude for Mr. Fischer's story is found in the British, German, and Turkish campaigns in the Near East from 1914 to 1918. "Palestine, Mesopotamia, the Caucasus, North Persia, South Persia—to the English, this broad belt stretching from the Mediterranean to India with the 35th parallel of latitude as its axis meant empire as well as oil. The two can hardly be judged apart." The Triple Alliance had similar interests in this region. The Berlin-to-Bagdad scheme was not merely a piece of Pan-Germanism; it was drenched in oil. "The end of the war drew the curtain on the empire-oil conflict in the Near East and registered a victory for the British. In Palestine and Mesopotamia English endeavor met with permanent success . . . in Persia it was temporarily rewarded. Only in the Russian Caucasus, where the double objective of the Union Jack forces was Baku oil and another lair for the British lion, was Britain thwarted by Bolshevism."

Beginning in 1898, Russia for a four-year period produced a larger volume of petroleum than any other country in the world. While this position of supremacy proved fleeting, the potentialities of the Russian oil fields are believed to be comparable to those of the United States which up until the present have produced more than two-thirds of the world's total output. It was scarcely to be expected, therefore, that British oil interests would be content with the temporary failure to secure control of Russian fields. But Britain has not been alone in her endeavor to secure control over the oil-producing areas of the world. The Royal Dutch Shell and the Anglo-Persian, British controlled companies, have everywhere come into conflict with our own Standard companies, and the struggle has grown keener with the passing of time.

Even prior to the Genoa Conference, called in the spring of 1922 to hasten the post-bellum economic rehabilitation of Europe, the lines of battle for the control of Russian oil were being drawn. While oil was not officially mentioned in the conference, the most absorbing questions before it were those touching on Russian debts and the restitution of private property. The latter was a matter of oil. As early as 1912 the Royal Dutch Shell had acquired 80 per cent control of the Rothschild Russian oil interests. These properties had been confiscated by the Bolshevik government. In 1920 the Standard Oil Company of New Jersey, with an eye to the main chance (with the emphasis on *chance*) purchased a half interest in the Nobel Russian oil properties. The Standard, as a purchaser of confiscated property, obviously had a very insecure claim against Russian oil. After the war, also, the stocks of Russian oil companies continued to be sold upon the Paris Bourse and many of these companies passed, through purchase of stock, under the control of French and Belgian capital. The interest of French and Belgian capital and the Standard Oil in the matter of the restitution of private properties thereby became one. At the conference the British representatives with the more secure claims of the Royal Dutch Shell at stake were friendly and conciliatory. They were willing to accept nationalization with compensation and the right to lease. The French and Belgian representatives with their more tenuous claims insisted upon complete restitution. Behind them stood the influence of Standard Oil and America. The outcome of the conference, which was wrecked on the rocks of private property, was a victory for Standard Oil.

The Hague Conference was a replica of Genoa. The questions before it were the same; the alignment of forces had undergone no change, and it likewise ended in failure.

Following the failure of the Hague Conference, there was a conference of oil men in Paris which included representatives of the Royal Dutch Shell, the Anglo-Persian, the Franco-Belgian Syndicate, the Standard Oil interests, and a number of Russian companies. They organized themselves into the "Groupement International des Sociétés en Russie" and agreed to present a united front in their negotiations regarding restitution of oil properties and the securing of concessions. They, in effect, agreed to establish a boycott and blockade against Russian oil in an endeavor to bring the Bolsheviks to terms. But economic forces have proven stronger than the community-of-interest ties binding the oil men into a common fraternity. Russia, unable to come to an agreement with the Allies regarding the restitution of private property and deprived thereby of her best markets for oil concessions, set about rehabilitating her confiscated oil properties. Her efforts have apparently been well rewarded. Oil production since 1922 has shown a continuous increase until production for 1926 attained a volume slightly in excess of the pre-war year 1913. Russian oil, contiguous to the markets of Europe and the Near East, has been slowly but none the less surely forcing its way therein. These developments have injected a disturbing element into the harmonious relations of the members of

the *Groupe-ment*. They, in truth, have proven its undoing. By February, 1923, rumor had spread that Royal Dutch, in contravention of the *Groupe-ment* agreement, had made a deal with the Soviet government for the purchase of kerosene. This was the beginning of the end, and it now looks as though there is to develop a general scramble on the part of the oil fraternity for the distribution of Russian oil in its normal markets.

These economic developments, moreover, bid fair to result in a repercussion upon American diplomacy. With the prospects of recognition of the Standard's evanescent claims upon Russian oil property gone aglimmering, there is more to be gained, perhaps, in the way of concessions in the production and distribution of Russian oil through friendly channels of approach. At any rate, "evidence has come to hand which proves beyond dispute that the Rockefeller trust has definitely unfurled the pro-Russian flag. The Standard Oil is advocating recognition of Soviet Russia."

Such in brief is Mr. Fischer's story. In such intrigues Mr. Fischer sees the germs of another war. "We are living in the Oil Age. Oil imperialism is in the saddle. The history of the next generation or two will be read in the light of the struggle for oil."

Mr. Fischer's account has been drawn largely from his experiences and contacts as a journalist in Moscow, Berlin, London, and New York. He has drawn frequently upon press dispatches and personal interviews. He has not neglected the available documents, but he has found it necessary to read between the lines. Another student of the problem with a different temperament and a different point of view no doubt would have produced a different story. Despite, however, the somewhat journalistic and alarmist tone in which it is written, Mr. Fischer's book is unquestionably the best account in English thus far produced of the rôle which oil has come to play in diplomatic affairs. It is worthy of the serious attention of all students of international diplomacy.

GEORGE WARD STOCKING.

University of Texas.

Watkins, Robert Dorsey. *The State as a Party Litigant*. (Baltimore: Johns Hopkins University Studies in Historical and Political Science. Series XLV, No. 1, 1927, pp. 207.)

Doctor Watkins has addressed himself generally to the doctrine of non-suability of the sovereign in English jurisprudence. It is a subject that particularly recommends itself to the attention of students of American Constitutional Law who find themselves confronted on the one hand with Marshall's famous application of the contract clause to appropriate action by the State Legislatures, and on the other with the Eleventh Amendment's assertion of sovereign immunity from private suit on behalf of the State.

All would be well if we could only rely on the old doctrine that, in order for a suit to be entertained against a State the latter would have



to appear as a party of record. But this would, under the liberal common law idea of rendering all public servants amenable to the suit of the private citizen in the ordinary courts, obviously result in destroying the effect of the immunity. It is therefore recognized that a suit may be in reality against a State even though the latter is not nominally a party thereto. The question then becomes—when does a suit against an officer so depend upon his official capacity as to be in effect a suit against the State itself?

Whoever has attempted to reconcile the leading decisions in Ayer's case and *Ex Parte Young* will have appreciated the extremely nebulous character of the line drawn by the Supreme Court. It may be suggested that the answer involves a question of legal tactics: If the private citizen, who alleges a failure of the State to observe a contractual obligation, can so maneuver as to place the State under the necessity of taking some affirmative action in order to breach the contract, he may be safe, because the State can act only through its agents and if those agents transcend the individual's personal or property rights they become tortfeasors, unable to justify without setting up the authority of an unconstitutional statute or order which of course the court will not allow them to do.

To revert to the specific subject matter of the book under review, it may be said that Doctor Watkins' study comprises twelve chapters, of which the first four are devoted to English precedents. The next four cover the application of the doctrine in the United States. The following three are miscellaneous, viz., "State Property in Domestic Courts of Admiralty: England and the United States," "Administrative Law and State Responsibility in France," "The State before Foreign Courts." Finally, in Chapter XII, we have the author's theories and conclusions.

The body of the text, i.e., the first eight chapters, constitutes an analysis of the three principal situations in which the State may find itself as a "Party Litigant." Accordingly we find that the chapter arrangement under a discussion of the English and American law is substantially the same. In each case there is an introductory chapter on the history of the doctrine in the country concerned—then follow chapters on "The State as Plaintiff," "The State as Defendant," and "Suits against Officers."

Significant points developed in the historical résumé of the doctrine of non-suability in the mother country are as follows: (1) The author makes reference to various early dicta that the sovereign was often cited to appear before his own courts prior to the time of Edward I. The author is inclined—rightly it is thought—to regard these as largely apocryphal. (2) The complete immunity from suit that the sovereign indubitably enjoyed from that time on is attributed to (a) the feudal theory, under which there was no forum in which the king could be tried even though he might theoretically be as much subject to legal restraints as any of his tenants; (b) the king's investiture with spiritual as well as temporal authority, and finally, (3) the theory of sovereignty as exemplified in the writings of Bodin.

The author's discussion of proceedings against the State in England naturally involves reference to the two ancient methods of securing redress against the Crown, i.e., the "Monstrans de droit," and the Petition of Right. Under the first it is pointed out that the original doctrine that a "Monstrans" lay only where the right claimed by the subject appeared by the same record, or one of as high a character, as that under which the Crown claimed, was enlarged by statutes of Edward III and Edward VI so that evidence outside the record was made admissible by the petitioner to block the Crown. The procedure under the Petition of Right is brought down through the Petition of Right Act of 1860 to show that even though the Act much simplified procedure by eliminating the Chancellor's Commission of Inquiry, and permitting the petitioner to plead as soon as the permission of the Crown had been given, the subject's right was, and still is, dependent upon executive grace in the particular case.

The author points out the supposed anomalous character of the exception of torts proved against the Crown from the scope of the petition. The maxim "The King can do no wrong" is equally applicable to contracts and torts, Doctor Watkins thinks. Possibly yet, if we analyze that little word "wrong" in this connection, we may find that it has a distinct moral as well as a legal flavor. If so, it might be difficult to fix the sovereign with a "wrong" in the case of a breach of contract. The common law courts themselves, when combatting the growing equity jurisdiction, were quite sure that an obligor bound himself only to perform or to pay damages in lieu thereof. This would seem to indicate that a breach of contract may not be a wrong in the sense of the maxim.

The chapter devoted to the Crown as plaintiff in civil litigation is interesting. The author enumerates the various advantages enjoyed by the State in prosecuting a claim against a subject. Of course modern statutes have more or less tended to equalize matters. The State now usually pays costs when loser; it moreover is often made specially subject to statutes of limitation, and so on. But at any rate, a consideration of the favored position of the State under our common law may serve to modify some of our views as to the significance of "the Rule of Law." The sovereign is no ordinary plaintiff before the bar of his own court—he does not quite forsake his pedestal to engage in the rough give and take of the legal arena with his liege subjects.

When we come now to suits against officers, it would seem that the author is in some danger of confusing agency with status. On page 42 we find it asserted, with reference to the liability of administrative officers, that "Even as between superior and inferior the ordinary rules of principal and agent do not prevail." It would seem much safer to say rather, that the relationship of *master and servant* does not exist so as to charge the superior generally with responsibility for the acts of his inferior in the line of the latter's official duty. But so far as agency is concerned, if it can be shown that the superior actually directed the acts complained of, there seems to be nothing in the cases to warrant the assumption that he is discharged from liability.

In discussing the United States as a party before its own courts the author devotes considerable attention to the Court of Claims. It is pointed out that the Act of 1866 gave the court no equitable jurisdiction nor any jurisdiction over torts. In 1887 the court was given an equitable jurisdiction and also was allowed to entertain all claims founded on the Constitution of the United States. It is supposed that this amendment was made a direct result of the decision in Langford's case (105 U.S. 341) in which it was strongly contended that the Government had taken private property for public use without compensation. There Indian agents of the United States had taken possession of buildings erected by the American Board of Foreign Missions, by whom suit was later brought to recover for the use and occupation, alleging an implied contract. However, the court found that the United States had not recognized the title of the plaintiff. There could therefore be no contract and the plaintiff was really complaining of a tort. It is pointed out that the amendment has not operated in fact so to widen the court's jurisdiction.

*The State as a Party Litigant* impresses the writer as an admirable study of a difficult and sometimes obscure subject. Perhaps we may conclude this review by reproducing the words of the Court of Claims in *Brown v. United States* (6 Ct. Cl. 254) quoted by Doctor Watkins to summarize the extent to which the United States holds itself amenable to its citizens in the courts:

"In the great arrogance of great ignorance, our popular orators and writers have impressed upon the public mind the belief that in this great republic of ours private rights receive unequalled protection from the Government; and some have recently pointed to the establishment of this court as a sublime spectacle to be seen nowhere else on earth. . . ." The section allowing suits by aliens "has revealed the fact that the legal redress given to a citizen of the United States is less than he can have against almost any government in Christendom. The laws of other nations have been produced and proved in this court, and the mortifying fact is judicially established that the Government of the United States holds itself, of nearly all governments, the least amenable of law."

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Stewart, Irvin. *Consular Privileges and Immunities*. (New York: Columbia University Press, 1926, pp. 216.)

The United States of America has on its pay roll 531 consular officers of career. There are at the present time in force between the United States and foreign countries fifty-four consular conventions or treaties containing articles concerning consular affairs. There are in this country approximately thirteen hundred foreign consular officers appointed by fifty-five foreign governments and charged with the protection of 13,712,754 aliens accounted for by the 1920 census. This country and Great Britain are the most important commercial countries in the world; their citizens and vessels are to be found in the four corners of

the globe. In this great outward expansion consuls constitute a vital factor. Yet, there is not extant in the English language any comprehensive treatise on consuls. The following are the only works, listed in Mr. Stewart's "Bibliography," touching some phase of the subject: Ludwig's *Consular Treaty Rights*, John Bassett Moore's *Asylum in Legations and Consulates*, and Stowell's *Consular Cases and Opinions*. A very poor showing indeed. This list is believed to be exhaustive, with the exception of Puente's *The Foreign Consul* published about the same time as the work under review. The subject moreover, besides being important, can hardly be called novel. The name *consul* is of course derived from that of the magistrates of Republican Rome. It has been suggested that the magistrates in the early Middle Ages who assumed the title did so through motives of vanity. If they did, it may be said that as a matter of fact that the title was not misleading since these early officials were usually the head of their community.

Mr. Stewart has not attempted to write the comprehensive treatise in the English language on consuls which is still such a conspicuous lacuna in the literature of this branch of international law. "The aim of this monograph," the author tells us in his preface, "is to present a study of a narrow field rather than a survey of a broad one. The term 'consular privileges and immunities' has been construed to apply to those exceptions from the ordinary operation of municipal law which relate specifically to the consular office; and those which any national of the consul's state might enjoy have been excluded. No attempt has been given the anomalous situation in certain states where extra-territorial privileges have been granted."

The chapter headings give a convenient bird's-eye view of the field covered by the author: "The Public Character of Consuls," "Inviolability of Consular Archives," "The Position of the Consulate," "Exemption from Taxation," "The Consul's Relation to Local Courts," and "Miscellaneous."

Mr. Stewart has taken great pains to substantiate all statements made by reference to pertinent treaty provisions, consular regulations and pronouncements of officials in authority. A unique feature of this work is the reference to regulations regarding consuls extant in most countries of the world in so far as they deal with the privileges and immunities of these officials. Moreover, in the case of the United States he indicates by a judicious juxtaposition of appropriate citations the development that has taken place with regard to the attitude assumed by this country on the topics discussed.

The author's treatment of the questions under examination appears to this reviewer to be best calculated to be of practical assistance to those who need to be informed quickly and at the same time authoritatively on the subject. Starting with a general discussion of the subject matter of his chapters, he proceeds to examine what the consular regulations of practically all countries of the world have to say on the matter. Discussing the inviolability of consular archives, he refers to the consular regulations or laws on this subject of thirty-one countries.



One of the most useful features of this work is the condensed analytical table in each chapter of treaty provisions in force to which the United States is a party, covering the subject matter discussed in the chapter. The following illustration clearly indicates his method and is taken from the chapter on "Exemption from Taxation":

3. From all taxes, imposts, and contributions levied especially on them, except such as may be due because of commerce or ownership of property.<sup>1</sup>

4. From all taxation, federal, state, or municipal unless they own property or engage in business in the state where they reside.<sup>2</sup>

5. From all direct and personal taxation, whether federal, state, or municipal, unless they own property or engage in business in the state where they reside.<sup>3</sup>

Each chapter ends with a short discussion of the treaty provisions referred to.

Such an arrangement enables the reader not only to ascertain at a glance what treaty provisions exist between the United States and a foreign country with regard to the particular subject in which he may at the time be interested, but also quickly to determine what provision may be invoked under the "most-favored-nation" clause.

The present reader has found the work under review of great assistance in his examination of problems concerning consular privileges and immunities and believes that American consular officers abroad as well as foreign consuls in this country and members of the legal profession who have occasion to examine into this branch of international law will find it useful to have this excellent and compendious work within handy reach. It is far from a criticism of the present volume to express the hope that the author will not rest on his laurels but expand the present monograph into a general treatise on consuls, including within its enlarged compass not only the comparative analysis of the laws and regulations of all countries on this subject to be found in the present volume, but also a topical reference to all existing consular treaty provisions as well as chapters on the history of the institution and on consular organization in the more important countries of the world.

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Huddleston, Sisley. *France*. (New York: Charles Scribner's Sons, 1927, pp. 613.)

Mr. Huddleston has written his book as one of the series appearing under the editorship of H. A. L. Fisher and known as the *Modern World*. In this collection among other volumes have already appeared Gooch's *Germany*, Toynbee and Kirkwood's *Turkey*, and Dean Inge's *England*.

<sup>1</sup>Mexico, AC&N, 1831; XXIX.

<sup>2</sup>Italy, CC, 1868: III. Belgium, CC, 1868: III. Spain, F&GR, 1902: XV.

<sup>3</sup>France, CC, 1853: II. Austria-Hungary, CC, 1870: II.

Mr. Huddleston's book will not raise the controversy that Inge's *England* has and it probably will not be considered as sound history as Gooch's *Germany*, or Toynbee and Kirkwood's *Turkey*. But it presents in a definite manner the problems of modern France and makes a brilliant and intelligent survey of the characteristics, institutions, and national traits which make up the life of the French people of today.

The subject matter is discussed in three divisions. The first attempts an historical résumé of French history from the early Capetians to the Second Empire. The second is called "Between Two Wars" and gives the historical setting from the Second Empire to the World War of 1914. In the last, called "The World War and After," there is an estimate of the French position of today.

In the first and second portions of the work Mr. Huddleston marshals his facts in order to provide the background of the French characteristics and to trace to their sources the historical origins of French institutions. After a splendid exposition of what we mean by present-day France, the narrative becomes burdened with facts and is likely, interesting as the development is, to confuse the ordinary reader by its encyclopedic arrangement of historical data. As the narrative approaches our own time the author shows an ease which has not been evident earlier and brings out clearly the emergence of republican thought, politics, and diplomacy. Clearly indicated also is the psychological effect upon the minds of the men of affairs of the question of Alsace-Lorraine.

The chief interest of the work will be in the last section of the book. Here is described the thought, the suffering, and the ambitions of the France which has emerged from the chaos of the war. A knowledge of affairs and an acquaintance with persons prominent in public life are used with journalistic keenness to produce a rich and interesting narrative. Factual knowledge the author most certainly has, but the distinction of the book will be in the clear perception of the customs, traditions, and thought of the French people. This could only come through a long and intimate association with the people and through a sympathetic understanding of their problems.

Some of Mr. Huddleston's conclusions are extremely interesting. He finds in France a growing distrust of Parliament and the Parliamentary system. He thinks younger Frenchmen are becoming aware of their insularity and there is a real awakening of colonial enterprise. To Africa France looks for troops as well as raw material and as the French are politically "color blind" there are no prejudices against the black and yellow races. The French believe that the "future depends upon internal renovation and the cultivation of foreign friendships." Upon the much discussed subject of *Kriegsschuldfrage* the author says that one has only to consider in the most cursory fashion the international system existing in 1914 to be convinced of the folly of trying to find proofs of culpability or innocence in the days which preceded the war. The questions as to whether Russia mobilized first, whether the Alliances were prepared in view of the contingency which arose, whether Poincaré was haunted by the loss of Alsace-Lorraine, are interesting historically.

But as for the question of whether the French as a people actively desired war Mr. Huddleston says emphatically "they were not even expecting it and on this point the verdict must be absolute."

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Beard, Charles A. and Mary R. *The Rise of American Civilization*, 2 vols. (New York: Macmillan Company, 1927, pp. 1652.)

A review of this monumental work cannot be made more than a mere attempt. It is so thoroughly comprehensive in its compass, covering every phase of American life from its beginnings in frontier settlements on the Atlantic Coast through the period of Revolution and national birth to our present position of the most powerful nation in the world, that it almost baffles one, placing himself in the position of the authors, to contemplate such a task, and is certainly presumptive to essay to judge fairly how well the task has been performed. One might as well recognize in the beginning his limitations and ultimate failure in some respects in such an undertaking.

"The Rise of American Civilization" is the proper title for this work. When one is in the habit of buying books and later discovering that their titles bear little or no relation to their subject matter, it is refreshing at least to be happily surprised occasionally. The life of a people is such a complex—never either the one thing or the other, but always an intricate web, really a piece of art or grand symphony—that it is difficult to comprehend such an occult thing and almost impossible to portray it. It is appreciably easier to write social, economic, political, or religious history than it is to picture after the fashion of a great artist a great people moving forward majestically along all lines toward the consummation of an enviable destiny, yet the latter performance is just what the authors in this instance have accomplished. The picture is so drawn that its details are lost in the harmony of its unity; it is a whole without parts.

As might have been expected, at least by Professor Beard's students or those familiar with his *Economic Interpretation of the Constitution* and *The Economic Origins of Jeffersonianism*, the point of view of the authors is economic, but it is given only such emphasis as the proper understanding of tendencies and movements warrant. Such movements as the American Revolution, the Constitutional changes of 1787, the origin and development of political parties, the struggle over slavery, the new nationalism of the last fifty years, and the foreign policy of the nation are basically economic, but in the interpretation of these movements, all the motives of a political or religious character of individuals and groups are permitted to play their parts. No pet hobby has been ridden to the exclusion of a thoroughly balanced presentation. The work is particularly noteworthy for several reasons. The freshness of its point of view is stimulating—whether the subject under consideration is George III, Lord Chatham, colonial merchants, Federal Convention, John C. Calhoun, revolution of the sixties, agriculture, the machine

age, labor, colonial art, education, Woodrow Wilson, or Calvin Coolidge. This new point of view, the reader feels, is not the raving of a mad man, but a judgment reached after the widest possible research and the most careful analysis. It is a point of view that is readily accepted. There is no inclination to question it—a feeling rarely experienced under such circumstances. The elimination, selection, and presentation are examples of a marvelous execution. Here is a model, which, let us pray, the historians of the country will follow. Here are masters of technique instead of slaves to it. This is not to say that it is not a scientific production; quite the contrary. It is so scientific that science was in the process of production converted into an art. No one can doubt but that back of this great work is a life of research. In its execution it is a piece of mastery. Its style is delightful. History in this instance has again become literature. The American Macaulay has made his appearance. Any reader capable of appreciating the story of a red-blooded people forging their way to the front in art, literature, and science, in politics, education, and religion, and in agriculture, industry, and commerce, standing ready to seize the leadership of the world in the movement for international justice, temporarily retarded, however, in this matter by mediocre statesmen, will find *The Rise of American Civilization* not only a true and thrilling account of our past achievement, but an inspiration for a finer and richer future in which "man's inhumanity to man" may be the exception instead of the rule.

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Bonard, Abel. *In China* (Translated from *En Chine*, by Veronica Lucas). (New York: E. P. Dutton, pp. 361.)

In *In China* we find an artistic appreciation of the soul of China by a writer to whom things Chinese inspire a genuine and calm delight. Generally, the author sees beneath the surface, reads the ancient backgrounds, and displays a knowledge of Chinese history, customs, philosophy, and institutions. By contrast to the occidental idea of "life as an orgy of pleasure-snatching," China, where inaction is always most effective, appeals as a human society closely associated with nature and the natural order. The subject, rather than being scientifically handled, evolves itself through a series of poetic pictures in which nature sheds her influence through colorful sunsets and fanciful moonlight. Treated in form and content as a travelogue, where descriptive ability is paramount, the constant search for insight into the soul of China is evident. Thus is it traced through art and religion, through village life and through city life. China, while easy to describe, is difficult to understand.

While the author portrays a scholarly knowledge of Asia, the conflict between the actual and the poetic may partially account for numerous confusing contradictions, some of which he overlooks and some of which he justifies. Thus, Chinese courtesy he first characterizes as genuine and later as hypocrisy. Then, "there is no poetry in China"—yet "there



is an undercurrent of poetry and it consists in hearing echoes from all the antiquities of the world." Again, we hear of "the melancholy plain of China"—and then "the grandeur of humility." Further, nothing is sublime, yet sublimity is uppermost. The author finally admits that there are "too many contradictory aspects of the Chinese soul to generalize . . . the soul is a procession"—of contradictory elements. The outstanding feature of China is a contradiction. "There is nothing on the surface to attract or fascinate, faces are expressionless and unrevealing, yet a passing moment may be imbued with the deep-laid mystery of centuries."

Yet the book might well be called "The Soul of China—and recognized as a desire to unravel its mystery. How else would a poet present China except by a constant looking for poetry in life? As a poet, his descriptions are vivid, meaningful—in everything from the beauty of the Temple of Heaven and the sublime antiquity of the Ming tombs to the grotesque and sinister aspects of "the gloomiest city in all China." As a poet, he observes from a sedan chair "looking down" rather than as a pedestrian, mingling with the crowds. As a poet, he allows a colorful sunset to change the meaning and significance of a scene. As a poet, his chief regret is found in the fact that "the poetry of life is fading away"; "the beauty of the world is vanishing." As a poet, he deplores that industry is driving out art and beauty.

China symbolizes "effective inaction." There everything discourages action—not by reason of timidity, but because such a course is innate in their ancient philosophy. The "uselessness of all action" he sees as paramount in their teaching. Hence the expressionless and unrevealing faces. Though deploring the "modern barbarians" who through unwise activity "destroy balance and order in everything," he patronizes the Chinese philosophy of inaction. And as, on his return voyage, he bewails "the uselessness of human effort" and seeks relaxation in the beauty of the sea, doubtless the ancient philosophy of China as revealed in modern Chinese life is solace to this author, at least. He becomes thereby inspired to give his readers a unique and thoughtful revelation of what he sees as the "soul of China."

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Austin, Texas.

Stern, Bernhard. *Social Factors in Medical Progress*. (New York: Columbia University Press, 1927, pp. 136.)

This study is an example of the modern wholesome and exceedingly useful tendency for the sciences to look into their past and to assist in the formation of a body of knowledge useful in enabling us to look upon science as a cultural phenomenon. The central thesis, however, is an attempt to find in the history of medicine data bearing on Ogburn's theory of social change and cultural lag. To account for this cultural lag the author establishes a list of eight factors, as follows: suffusing of the habitual mode of activity with an emotional tone, difficulty of

reconditioning behavior patterns, social pressure, the influence of authority, economic vested interests, conflicts with other phases of culture, mechanical difficulties in the diffusion of knowledge, and the conflicts of the various personalities engaged in the undertaking. In the light of these eight retarding factors the author reviews the opposition to dissection, to Harvey's theory of the circulation of the blood, Auenbrugger's theory of percussion, vaccination, Holmes and Semmelweis' theory of the origin of puerperal fever, Pasteur and his discoveries, the doctrines of antiseptis and aseptis. In each of these he finds all or most of the factors enumerated at work.

What strikes the reader in the perusal of these vicissitudes of medical inventions and innovations is the enormous degree of opposition by the members of the medical craft to the innovations in its own field. I am of the impression that this is probably more true of medicine than of any other science. The explanation would lie in the fact that so much of the medicine is empirical that the medical practitioner is exposed to competition and to the caprice of the patient who has not been willing to be experimented upon until very recently when he seems altogether too willing and to the fact that the physician is apt, in spite of himself to assume a certain omniscience and omnipotence which cannot abide a public admission that there is anything to be known about medicine which he does not already know. Until the appearance of the modern experimental attitude which is willing to learn and which uses this willingness as an extra claim for credit in its behalf, the physician who wanted to continue to learn was not a safe man to entrust your life to. I am also inclined to pay greater attention to the personal factor, personal jealousies, and the desire for prestige, in accounting for the opposition of apparently intelligent and able men to what seem to us today perfectly self-evident propositions. The author's insistence upon the contributions of the other sciences and the rise of "the cultural base" in making new inventions possible is exceedingly illuminating and a good deal more could have been said about that with great profit. Along the same line the author also discusses the problem of the dependence of the medical inventor upon the work of his predecessor by giving a long list of medical discoveries and inventions which were made spontaneously by more than one person in different places. It seems plain enough, after the evidence presented here, that often the medical discoverer is forced to discover by the sheer presence all around him of the evidence which he needs. Why the discoverer is a certain person instead a certain other person still remains unanswered.

This study would greatly have gained in interest and value if the author had given us a fuller account of the training and character of the persons who exercised the profession of medicine. It would then have become clearer why the opposition took the shape that it did. As it stands it is a pioneer study in the field and should prove valuable to those interested in the phenomenology of social change.

MAX SYLVIVS HANDMAN.

University of Texas.

Tardieu, André *France and America*. (Boston: Houghton Mifflin Company, 1927, pp. vii, 312.)

Few are better equipped to write an essay on France and America than André Tardieu, the veteran French journalist, statesman, and diplomat, who was a member of the French High Commission in the United States during 1917-1918 and later observed Franco-American contact as a French plenipotentiary at the Paris Peace Conference. He gives a keen analysis of the differences between the two peoples, of the friction and difficulties that have prevented or accompanied coöperation between them.

M. Tardieu has caught the F. J. Turner interpretation of the American moving frontier and contrasted it with the French idea of a frontier as a fixed line to be defended. America has had a short dynamic development, featured by sectionalism and varied immigration, almost unmarked by foreign invasion, dominated in politics by economics and individualism, but manifesting a slavery to standardized social axioms that a Frenchman would tear up. In contrast, "France has been at war for three-fourths of her history of twenty centuries." This has led to a centralized nationalism and solidarity, with an ever watchful thought of security. Religious strife in politics, internal revolutions, class struggles, and social individualism do not affect or aim to affect this national unity. One might challenge the author's assumption or implication of a French eternal martyrdom to the cause of civilization.

Much of the book consists of a history of military, official, and unofficial friction between French and Americans during the World War and the years immediately following. High tribute is paid to those American citizens and organizations that rendered economic service to French wounded and devastated regions. It is emphasized that the French people failed to understand that the United States participated in the war to fight for herself rather than for France. (Page George Harvey!)

Enlightenment and a frank recognition of shortcomings on both sides are offered as the essentials to successful coöperation in the future. France must offer effective respect to American optimism and love of achievement. On the other hand, the heritage of a Puritan faith and the triumph of mass production have given Americans an "overweening pride," which is associated with the lack of an appreciative comprehension of Europe. American foreign policy is criticised as being evasive and accompanied by a popular belief in a moral superiority and political inferiority to Europe. The distinguished observer's own country seems to have the edge in paucity of adverse criticism.

This book is not comparable in wealth of facts and insight to James Bryce's American studies, but it deserves a wide American reading as an excellent account of contrasts. It is an attractively printed, un-indexed essay, brilliantly written.

H. C. NIXON.

Vanderbilt University.

*The Missouri Crime Survey.* Published by the Survey Committee of the Missouri Association for Criminal Justice. (New York: Macmillan Company, 1926, pp. xxviii, 587.)

This is a cross section of the administration of criminal justice in one of our most important states undertaken by a group of socially-minded citizens and carried out by a group of scientists and experts. The findings are startling and exceedingly illuminating. Chancellor Hadley, a member of the association and one of the authors of this survey, incidentally sums up most of the findings in this pithy sentence: "Stated in terms of percentages, the result is that our system of apprehending and prosecuting those guilty of criminal offenses is only from 5 per cent to 10 per cent efficient; considering those apprehended and indicted for major offenses it is only from 25 per cent to 30 per cent efficient, and including those actually tried for major offenses about 50 per cent efficient." All this in a state where the homicide rate is double the urban average for the United States. Further facts brought out in connection with this study are that the public prosecutor has more power over criminal cases than any other official of the state, including the judge; that the grand jury actually initiates no more than 11½ per cent of criminal prosecutions; that the professional bondsman is often an ex-criminal, and that judges have been known to accept the bond of one man for \$670,000 who had property worth \$24,100 mortgaged for \$31,500; that out of a hundred cases for which warrants were issued only one-third were punished, the country getting a slightly heavier punishment than the city; that in liquor cases only half as many are punished as in non-liquor cases, the country furnishing by far the largest share of the total convictions: 23.76 per cent in the rural districts as over against 1.81 per cent in the city; that two out of every three persons sentenced to correctional institutions and almost every other person passing through the police courts of Missouri is a recidivist; that the parole system in Missouri, which is responsible for 85 per cent of the releases from the Missouri Reformatory School, compels only 5 per cent of those committed to serve their sentences; that the average time which it took the 1,000 recently paroled offenders to get their release was 11.5 months, while the average length of the sentence for which they were committed was 50.6 months; that fully 50 per cent of those paroled were failures from the standpoint of the motive for which they were paroled, and that, finally, the whole system of penal organization of Missouri is a part of the political spoils system from which nothing better can be expected.

Never has there been such a thoroughgoing study made of the whole system of the administration of justice in a great commonwealth and never has there been such an unbiased and dispassionate indictment of it as is found in this volume. It should be read and pondered over by every person interested in the problem of justice in the United States and those who are not interested in justice but who unfortunately are appointed to administer it should be compelled to read it, for therein is



contained the most compelling reason why they should be forced to leave the halls which they are defiling by their presence.

MAX SYLVIVS HANDMAN.

University of Texas.

Coolidge, Archibald Cary. *Ten Years of War and Peace*. (Cambridge: Harvard University Press, 1927, pp. viii, 276.)

It is a courageous thing to republish in their original form, as is done in this little volume, ten papers or articles, at least one of which was published fifteen years ago. (The bulk of the volume consists of seven articles published in *Foreign Affairs* between 1922 and 1927.) But it is a step which Professor Coolidge may well venture to take, for the judgments which events have proven unsound are in the minority, the judgments which have been borne out by time are manifold, and the qualities of keen perception, of mature wisdom, of audacious and constructive thinking shine out as clearly as on their first appearance.

The various papers included in the book deal with the Russian question, American foreign policy and the Monroe Doctrine, the position of Germany in post-war Europe, European colonialism in North Africa, general European international political relations, and the break-up of Austria-Hungary. Of these only three or four have an academic or strictly historical character, and the discussions of Russian and German and American foreign policy are as vivid and significant as could be demanded today.

The outstanding quality of the whole series of essays is their calm detachment coupled with sturdy vigor. The prejudices of current opinion do not distort the judgments passed upon the Russian position and the dissatisfaction of Germany with many phases of the post-war situation in Europe. Partisan bias neither accentuates nor minimizes the values ascribed to Harding foreign policy. If the Monroe Doctrine is good it is good because it works, not because it is hallowed; if it is seen to be on the way to decay that is for fundamental historical causes, not because of democratic or equalitarian tastes on the part of the author. And as one threads one's way through "The Grouping of Nations," one realizes that the pilot is himself too fully conscious of the difficulties and complexities of analysis of international political relations to take any but a most cautious, objective, and absolutely disinterested attitude. The reader is constantly surprised by unexpectedly conservative and also unexpectedly radical judgments; the fact is that the author is not being either conservative or radical, but strictly scientific, so far as that may be done, and it is the reader whose prejudices produce the impression described.

P. B. POTTER.

University of Wisconsin.

Sait, Edward McChesney. *American Parties and Elections*. (New York: The Century Company, 1927, pp. vii, 608.)

Dr. Sait in his *American Parties and Elections* has succeeded in preparing a textbook on American political parties superior to most others dealing with the subject. Such a work is not easy. With a vast amount of material to cover the problem is one of selection and arrangement, and the dangers are that the product will be either unwieldy or superficial. In this case a middle course has been steered, and in spite of the comprehensive array of facts presented, the author has skillfully interpreted the spirit, human element, and intangible qualities of party life.

The arrangement of the book is logical. The starting point is with the voter. Adequate attention is given to the suffrage arrangements, after which comes a discussion of public opinion and the social and economic factors which lie back of a clear understanding of the composition, structure, history, and operation of political parties.

Secondly, due emphasis is given to the history of party organization. The author fully recognizes that party history has two phases—the development of party machinery as well as the chronicling of campaigns and issues, the first phase being one that most writers neglect. Needed attention is also given to party executive organization in two chapters, one dealing with national party executives, the other with state and local executives.

Too many details have perhaps been introduced into the chapters on nominations and elections, yet they are well handled and much material has been judiciously placed in footnotes. In fact when one considers the valuable footnotes the book may be characterized as a veritable encyclopedia. Remarkable skill has been shown throughout the book in whipping a mass of material into wieldy form. Lastly, due consideration has been given to the organization and operation of the electoral and party system in the South, a phase usually neglected, or upon which much ignorance has been displayed.

Some subjects which usually get much space in textbooks have been lightly handled or omitted. The operations of the party in power—in the civil service, the legislative bodies, and the courts—have been neglected. The Recall, Initiative and Referendum are treated in one chapter. Perhaps these matters are rightly left for writers in other fields.

O. DOUGLAS WEEKS.

University of Texas.

Hill, Charles E. *The Danish Sound Dues and the Command of the Baltic*. (Durham, N.C.: Duke University Press, pp. 328.)

To one with a sense of humor this will be a very amusing as well as a very enlightening book. By the sheer accident of position, Denmark was able to engage in legalized piracy through the imposition of dues on all the ships passing in and out of the Baltic for a period of 400 years. The conflicts of rivalry between the various contestants for

power in the north of Europe resulted in fastening the Danish tariff yoke upon all traders; and it was primarily the blunt refusal of the United States in the first half of the nineteenth century to be held up any longer that brought the final downfall of this nuisance. Denmark, realizing that the game was probably up, threw the whole matter into a general discussion with the hope of saving as much as possible out of the forthcoming wreck. A conference was called in 1857 which allotted Denmark the sum of 32,500,000 rigsdalers and in this way bought off the historic pirate. In that manner the trading nations of the world acquired the right to be left in peace. It is interesting to note that Brazil refused to pay her share and that the United States, although she refused to take part in the conference, paid her share of the ransom and the matter was settled. This book discusses the whole problem with a wealth of historic detail, perhaps a little too luxuriant, but in the main very interesting. While the author has no sympathy with this legal piracy, he is fair to all sides and makes an effort to let the documents speak for themselves as much as possible, in fact perhaps a little too much, an occasional summary of the argument would have enabled the reader to keep the whole matter a little more clearly before him. Nothing can show, however, the military character of early commerce more clearly than this study. Certainly the pre-capitalistic commercial activities would not enable one to assent to Spencer's contrasting of military with industrial societies: both in the Mediterranean and in the north of Europe trade and war seemed for a long time one and inseparable. This is what makes the history of pre-capitalistic commerce capricious, turbulent, and romantic.

MAX SYLVIVS HANDMAN.

University of Texas.

Cook, William A. *Federal and State School Administration*. (New York: Thomas Y. Crowell Company, 1927, pp. ix, 373.)

The primary objective of this new book on general school administration is to inform those who are unfamiliar with the scope and machinery of this important social project. Professor Cook claims, and rightly, that teachers and citizens alike are generally unfamiliar with the basic principles of educational administration. The text is, therefore, written from the beginner's point of view and covers a wide range of territory. Practically all of the aspects of general administration are included save that of our city schools. For the purposes for which it was designedly written, Professor Cook has made a distinct contribution. The language is simple and direct; the organization of materials is excellent; the style for the greater part is pleasing; and, best of all, the subject matter is interesting. The classifications and points of view maintained are strictly conventional, and the author makes no contribution by way of needed reorganizations of our present types of administrative organization.

Professor Cook opens his book with a chapter on the school as a social institution, followed by a chapter which presents a brief historical account of education as a public function in the United States. Then come three chapters dealing with the types of control which the Federal Government exerts, or proposes to exert, over education in the United States. Chapter VI is devoted to the various private agencies, such as the General Education Board, which exert a national influence upon educational practices. The remainder of the book is then given to a descriptive analysis of the machinery, problems, and procedure found in state and county units of educational control, terminating with two chapters on the general and special divisions of American schools, such as kindergarten, elementary school, schools for cripples, etc.

Critical students of educational administration will undoubtedly raise some question about the desirability of another descriptive book in school administration, but from the point of view of the average reader, one feels entirely justified in recommending the book for general and useful informational reading.

FRED C. AYER.

University of Texas.

Lehfeldt, R. A. *Money*. (London: Oxford University Press, 1926, pp. 116.)

This little booklet is done with great skill and should be welcome to those who are looking for a short and concise summary of modern monetary theory and practice. The author, in the main, belongs to the quantity theorists with the modification introduced by the velocity principle. His concrete material, however, is primarily taken from European experience, in marked contrast to most American writers on money who use American experience to the exclusion of most others. As remedies for the present monetary chaos he considers the necessity of a reestablishment of the gold standard everywhere before anything can be done to avoid the shifting of standards inherent in the gold standard as well. For the ultimate solution of the problem of the standard and the price level, he seems to favor Fisher's compensated dollar scheme, which he thinks both reasonable and practicable. Realizing that such a scheme will tend to frighten away the practical business man, he advocates the gold-control mechanism also advocated by B. M. Anderson in this country. He also looks with favor upon Keynes' suggestion of a purely managed currency, but thinks that public officials have not achieved the trustworthiness required of them by a system of managed currency. His final conclusion is that a universally valid unitary monetary system controlled by a central office, somewhat after the manner of our Federal Reserve System, is the best solution. It will also eventually abolish the difficulties of international payments and when that comes about "the study of monetary theory will drop into the background." For a clear and incisive presentation I know of no study which presents the matter



of money in as brilliant a manner as this booklet. I hope that the author will follow this with a similar one on banking.

MAX SYLVIVS HANDMAN.

University of Texas.

Rourke, Constance Mayfield. *Trumpets of Jubilee*. (New York: Harcourt Brace & Co., 1927, pp. xiv, 445.)

Biographies for popular consumption and attempted analyses of the life and foibles of recent decades seem to be the order of the day. Literary psycho-analysts in increasing numbers are scrutinizing for our amusement the deficiencies and superficialities of the popular idols, manners, fashions, and thought habits of former days. And perhaps not altogether wrongly, particularly in regard to mid-nineteenth century America, about which there was much of grandiose shoddiness which needs to be exposed.

*Trumpets of Jubilee* comprises biographical sketches of five Americans in this "Middle Period" who were both influential and typical of certain dominant currents of thought or habits of thinking. Three of the five belonged to one family—Lyman Beecher and his two prominent children, Henry Ward Beecher and Harriet Beecher Stowe. The other two are Horace Greeley and P. T. Barnum. In Lyman Beecher we see the transition from the stern Puritanism of an earlier period to the idealistic, impractical, and expansive spirit of the "roaring forties." In his daughter Harriet we are given a supreme example of a "lady-like" revolt from a cramping theology and the sheltered status of her sex, which takes the form of the hysterically sentimental humanitarianism characteristic of the times. In Henry Ward Beecher we find symbolized the buoyant new American spirit reaching out in juvenile fashion for "the grand, the true, and the beautiful." The "Sage of Chappaqua" is presented as a mirror for all the frenzied mixture of ineffectual idealism and practical politics of the day. P. T. Barnum illustrates the tendencies of the Beechers and Greeley but on a plane nearer the level of the great average American.

Are these pictures caricatures or photographs? Perhaps a combination of both, but the reader is inclined to think more the latter, because the author has been painstaking with details as well as masterful in her analyses of character. An interesting interpretation is *Trumpets of Jubilee* of what might be termed the early adolescence of America, and as such the book is of some value to students of American political and social psychology.

O. DOUGLAS WEEKS.

University of Texas.

Westermarck, Edward. *Ritual and Belief in Morocco*. (London: Macmillan & Co., 1926, Vol. I, pp. xxxii+608; Vol. II, pp. xvii+629.)

Those familiar with Professor Westermarck's work know that he is a veteran in Moroccan ethnology, having previously given us a very

valuable study on the marriage ceremonies of that region. Having been led to the study of the Moroccans as a concrete instance in his general theory of the family, he now selects the same group for a concrete instance of his general theories concerning the origin and development of moral ideas. Ritual and belief are here studied not as quaint and curious lore, but as forms of social organization and methods of social control. The mechanism of spirits, the possession of the special gift, the Baraka, the prophylactic measures against the spirits, the function of the evil eye, the place of oaths, and the mechanism of witchcraft are studied as a consistent system of theory and practice which makes up the system of live and let live of this community. Of particular interest are the studies of the rites and beliefs connected with the calendar, and the various divisions of the year, those connected with agriculture with the influence of the weather, animals, childbirth, early childhood, and death. All manner of brilliant suggestions are to be found throughout the two volumes which even though they may not be accepted are yet a source of great pleasure or keen irritation, according to the predisposition of the reader. Such a one may be considered the author's theory that the Ionic capitol may have had its origin in a charm against the evil eye, since "it bears a strong resemblance to a pair of eyes with their brows united." Altogether the section dealing with the manner in which Moorish spells have turned into pictorial designs is exceedingly intriguing and it might serve as an enlargement of Haddon's classification of the Anthropomorphists in the evolution of design.

MAX SYLVIVUS HANDMAN.

University of Texas.

Hewett, William W. *Rudiments of Economics*. (New York: Thomas Y. Crowell Company, 1927, pp. x, 247.)

According to the author, the purpose of this small volume is to assist in popularizing economics. To this end it attempts to express "in brief, simple, semi-popular form the *real spirit of economic science* without dodging the more fundamental of economic principles." This praiseworthy aim has met with a surprising measure of success. With the exception of public utility and agricultural economics, the entire field of the science is surveyed, parts of it sketchily and somewhat superficially, it is true, but little of it without interesting description or thought-provoking analysis.

The essentials of the theory of price determination are set forth in seventeen pages—a remarkable achievement and one worthy of imitation by elementary textbook writers. The absence of elaborate (and confusing) diagrams to illustrate mythical situations or metaphysical concepts is refreshing. There is a timely chapter on "Waste and Inefficiency"—a feature of our economic system generally carefully disregarded in introductory texts.

No attempt is made by the author toward original contributions to theory, and controversial questions are judiciously omitted. In view of the explicit purpose of the book, these indeed should be omitted. One

feels that the beginning student or general reader may obtain a stimulating and instructive introduction to economics from this brief treatise.

E. E. HALE.

University of Texas.

Weld, W. E. and Tostlebe, A. S. *A Case Book for Economics*. (Boston: Ginn & Co., 1927, pp. xiii, 508).

The case method of teaching the introductory course in economics possesses undoubted advantages, but teachers who favor that method have been hampered in its use by lack of suitable and accessible material to place in the hands of their students. This volume makes available more than one hundred cases intended to illustrate significant economic theories and principles in action. The majority of the cases presented are accounts of actual economic situations or occurrences, i.e., they are "true stories." This greatly enhances their interest and value. The selections, also, are sufficiently inclusive to cover all the more important aspects of the science. A commendable feature of the selection is the inclusion of several cases on problems of outstanding current interest and significance, such as cotton acreage reduction, the Great Lakes-St. Lawrence Ship Channel, etc. Each case is followed by a number of pertinent questions intended to develop the principle or principles involved in it.

The use of this case book in the introductory course should serve to remove the seemingly unrealistic and abstractly theoretical character of economic theories and principles as they are presented in the conventional elementary text.

E. E. HALE.

University of Texas.

Engelmann, Géza. *Political Philosophy from Plato to Jeremy Bentham*, translated from the German by Karl F. Geiser, with introductions by Oscar Jászi. (New York: Harper & Bros., 1927, pp. xxiv, 398.)

This work, by a Hungarian scholar, was originally published in 1923 in Berlin under the title *Meisterwerke der Staatsphilosophie*. It considers the work of fifteen outstanding political philosophers from Plato to Bentham. Among these, three Americans: Hamilton, Madison, and Jay, are treated in one chapter. Four Englishmen are given place: More, Hobbes, Locke, and Bentham. Four other moderns are taken up: Machiavelli, Spinoza, Montesquieu, and Rousseau. The remaining ones are Plato, Aristotle, Aquinas, and Dante.

The plan of the author in dealing with these writers, to use his own words, is "to arrange and formulate their thoughts clearly and concisely, as if the masters themselves were presenting, in a brief discourse, whatever in their teachings is of importance to us—their legacy to us." He has simply retold in a clear conversational manner only those ideas which he thinks have practical application to present political problems

or are of lasting importance. In the case of each writer there has been added a brief explanatory note.

O. D. W.

*The Statesman's Book of John of Salisbury*, translated into English with an introduction by John Dickinson (New York: Alfred A. Knopf, 1927, pp. xc, 410), is a recent publication in Alfred A. Knopf's interesting Political Science Classic Series, edited by Lindsay Rogers. The volume contains the fourth, fifth, and sixth books and selections from the seventh and eighth books of the *Policraticus* and is the first English translation of a most important medieval political treatise. The introduction by the translator covering sixty-eight pages is a valuable analysis of the *Policraticus*. John of Salisbury's importance in the history of political theory needs no emphasis to students in the field. The *Policraticus* "is the only important political treatise written before western thought had once more become familiar with the Politics of Aristotle," and is hence a most distinctive contribution of the Middle Ages, with its peculiar treatment of the concepts: commonwealth, law, the functions of the prince and his relationship to the church, together with the doctrine of tyrannicide and the idea of the organic character of the state.

O. D. W.